FEDERAL AVIATION ADMINISTRATION'S ENFORCEMENT PROGRAM AND THE RECERTIFICATION OF CARRIERS WHO HAVE HAD OPERATING CERTIFICATES REVOKED

(101-73)

HEARINGS

BEFORE THE

SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT

OF THE

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

JUNE 19, 20, 1990

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CONTENTS

Proceedings of: Page
June 19, 1990 1
June 20, 1990 193

JUNE 19, 1990

TESTIMONY

Alkalay, Loretta E., Assistant Chief Counsel, Eastern Region, Federal Aviation Administration 32
Beamer, G. Thomas, former captain, Northeast Jet 5
Holtz, Earl, owner, Northeast Jet, accompanied by Susan B. Jollie, Esq. and Mark S. Kahan, Esq., of the Law Office of Galland, Kharasch, Morse, & Garfinkle 47
Leonelli, Frederick J., Manager, Operations Branch, Flight Standards Division, Eastern Region, Federal Aviation Administration 32
Maddan, Richard A., Manager, Allentown Flight Standards District Office, Federal Aviation Administration 32
Szemplenski, Joan, former aircraft scheduler, Northeast Jet 5
Telfer, William D., former chief pilot, Northeast Jet 5
Woodward, Susan J., former management official, Northeast Jet 5

STATEMENT SUBMITTED BY A MEMBER OF CONGRESS

Hammerschmidt, Hon. John Paul, a Representative in Congress from Arkansas 4

PREPARED STATEMENTS OF WITNESSES

Alkalay, Loretta E 62
Beamer, G. Thomas 65
Holtz, Earl M., with attachments 70
Leonelli, Frederick J 152
Maddan, Richard A 157
Szemplenski, Joan 161
Telfer, William D 164
Woodward, Susan J 169

SUBMISSION FOR THE RECORD

Beamer, G. Thomas, letter from Northeast Jet counsel regarding Earl Holtz/Northeast Jet/Private Jet Service 174

JUNE 20, 1990

TESTIMONY

Broderick, Anthony J., Associate Administrator for Regulation and Certification, Federal Aviation Administration, accompanied by Gregory S. Walden, Chief Counsel 194

PREPARED STATEMENT OF WITNESS

Broderick, Anthony J 237

SUBMISSION FOR THE RECORD

Broderick Anthony J., Associate Administrator for Regulation and Certification, FAA, data on revoked air carrier operating certificates since 1985 199

FAA'S SAFETY ENFORCEMENT PROGRAM AND RECERTIFICATION OF CARRIERS WHO HAVE HAD OPERATING CERTIFICATES REVOKED

TUESDAY, JUNE 19, 1990

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC.

The subcommittee met, pursuant to recess, at 10:00 a.m. in room 2167, Rayburn House Office Building, Hon. Glenn M. Anderson [chairman of the subcommittee] presiding.

Mr. ANDERSON. The meeting of the subcommittee will come to order.

This morning the Subcommittee on Investigations and Oversight continues its inquiry into the Federal Aviation Administration's safety enforcement program.

Two years ago, the subcommittee received testimony on enforcement activities in the FAA's Alaskan Region. The Department of Transportation's Office of Inspector General reported that enforcement activities in the region were anything but vigorous. In fact, the Regional Counsel routinely reduced enforcement sanctions recommended by field inspectors for unexplained or unjustified reasons. We found that structural changes needed to be made within the FAA to ensure that activities were effectively conducted and coordinated.

A strong enforcement program is one of the building blocks of a safe air transportation system. Our enforcement system, if operated correctly, must do two things. First, it must ensure that violators are penalized for infractions of Federal Air Regulations. Second, and perhaps even more importantly, it must provide a deterrent against future violations.

Over the next two days, the subcommittee will be examining how effective that enforcement program has been in accomplishing its goals. The question we will focusing specifically on is this: How does the Agency deal with airlines that intentionally commit serious safety violations?

From reviewing past cases, it appears that the Agency permits operators who have committed serious safety violations to return to the business after a year's absence, and sometimes even sooner, regardless of the severity of the violations. It is as if the Agency has decided that a year's absence is equivalent to a commercial death penalty. We will see.

For reasons which will be explored throughout these hearings, the FAA has not used existing regulatory authority to keep "bad" operators out of the business for longer periods of time.

The current FAA "revolving door" policy is not only questionable from a public standpoint, but as the subcommittee has found, it has frustrated FAA's work force of field inspectors and regional attorneys.

To understand how the system works in the real world, we will be hearing testimony today regarding the certificate revocation and the eventual recertification of Northeast Jet, a small carrier in Allentown, Pennsylvania. An emergency order of revocation was issued against Northeast Jet on September 30, 1988 for, among other things, maintaining a duplicate set of maintenance records. Last month, the company was issued a new operating certificate and is back in the aviation charter business.

It is important for the subcommittee to understand how Northeast Jet operated before revocation. We must know whether the violations found by the FAA at Northeast Jet resulted from deliberate attempts to ignore Federal Air Regulations for company profit. If this is so, we need to consider modifying the enforcement system to keep out those that would blatantly disregard regulations established for the safety of the travelling public.

We will take testimony from former employees of Northeast Jet, its owner, and the key FAA officials who were directly involved in this case. We look forward to hearing from all those who are participating today.

At this time, I would yield to the subcommittee's ranking republican member, Mr. McEwen.

Mr. MCEWEN. Thank you very much, Mr. Chairman. I appreciate your opening remarks and ask at this point that the statement by the ranking member of the full Committee on Public Works be inserted in the record. I would say thanks for scheduling and continuing this subcommittee's tradition of oversight of aviation safety issues.

Like any other member of the flying public, I rely on and trust the Federal Aviation Administration to ensure that commercial carriers follow the strictest standards and consider public safety their priority. Like most people, when I get on an airplane I assume that it is safe and that the FAA has certified it so. Through the certification process, safety inspections and regulatory investigations the FAA protects the consumer who could not possibly check these technical details himself.

And so it is with great concern for public safety that we begin this most recent set of hearings on the ability of the FAA both to investigate and discover safety violations and then to prosecute these crimes in such a way as to prevent the violators from doing it again.

The subcommittee has examined these issues through a detailed study of one particular case in which a Part 135 charter airline operator was found in violation, the certificate to operate was revoked, and now the violator is again in business. While we are not here today to reopen the case, I think we can learn from it and extrapolate to discuss how the FAA safety enforcement and prevention system operates.

A number of interesting issues have come to light during the investigation, particularly with regard to how different FAA officials assigned to different jobs interpret and implement existing regulations, as well as how they view and utilize the penalty system. I hope this hearing will be useful in reconciling some of these views and help open the lines of communication within the FAA.

Additional issues that I am anxious to examine here today revolve around the oversight of local flights standards division offices, the role the offices play in investigating and taking enforcement action against violators, and how the FAA tracks and deals with the violator once enforcement action has been taken.

I do understand the paradox the FAA currently faces: while charged with maintaining the highest standards of safety for the public, the FAA must also promote compliance and good working relationships with the aviation industry in order to help to create a better air transportation network. Inevitably there will be conflicts in policy and attitude, but for safety's sake we must confront these problems. We all want this hearing to be fruitful and contribute something to that process.

Therefore, I am looking to the testimony of our witnesses. I particularly appreciate the cooperation of those involved with Northeast Jet specifically. The former employees and owner have valuable insight to share with us on the operations and safety of a part 135 carrier. I appreciate the participation of the FAA as well.

Again, I thank the Chairman for scheduling these two days of hearings and I look forward to the testimony of our witnesses.

Mr. ANDERSON. Are you asking us to make Mr. Hammerschmidt's remarks part of the record?

Mr. MCEWEN. Yes, sir.

Mr. ANDERSON. No objection, so ordered.

[Mr. Hammerschmidt's prepared statement follows:]

OPENING STATEMENT OF THE
HONORABLE JOHN PAUL HAMMERSCHMIDT
SUBCOMMITTEE ON INVESTIGATIONS
AND OVERSIGHT
HEARING ON FAA'S SAFETY ENFORCEMENT
AND AIR CARRIER CERTIFICATION RESPONSIBILITIES
10:00 A.M., JUNE 19 & 20, 1990, ROOM 2167
RAYBURN HOUSE OFFICE BUILDING

THANK YOU, MR. CHAIRMAN. I AM PLEASED TO BE HERE WITH THE SUBCOMMITTEE TODAY AND JOIN YOU IN WELCOMING THE WITNESSES WHO WILL BE APPEARING.

MR. CHAIRMAN, I COMMEND YOU AND THE SUBCOMMITTEE'S RANKING REPUBLICAN, BOB MCEWEN, FOR SCHEDULING THESE TWO DAYS OF HEARINGS ON THE FEDERAL AVIATION ADMINISTRATION'S SAFETY ENFORCEMENT AND AIR CARRIER CERTIFICATION RESPONSIBILITIES. PARTICULAR ATTENTION WILL BE FOCUSED ON THOSE SMALLER OPERATORS KNOWN AS "PART 135 CARRIERS," INCLUDING THOSE THAT PROVIDE AIR TAXI, CHARTER AND ON DEMAND SERVICES.

THE MAJORITY OF THE TRAVELING PUBLIC IN THIS COUNTRY WOULD BE SURPRISED TO LEARN HOW NUMEROUS THESE SMALLER CARRIERS ARE, AND THE NUMBER OF PASSENGERS THEY CARRY EACH YEAR. WHEN WE ORDINARILY THINK OF COMMERCIAL AVIATION IN THE UNITED STATES, WE THINK OF THE MAJOR AIRLINES-THE PART 121 CARRIERS-WHO CONDUCTED SOME 12.5 MILLION FLIGHT OPERATIONS IN 1989. IT MAY BE SURPRISING TO SOME THAT THE 3,200 PART 135 OPERATORS CONDUCTED APPROXIMATELY 8.3 MILLION OPERATIONS IN THAT SAME TIME PERIOD.

WHEN WE CONSIDER THE SCOPE OF THESE OPERATIONS, IT BECOMES CLEAR WHY THERE IS A PUBLIC INTEREST IN SEEING THAT SMALLER CARRIERS, JUST LIKE THE LARGE ONES, OPERATE ACCORDING TO THE RULES AND IN THE SAFEST MANNER POSSIBLE. ENSURING THAT THEY DO SO IS THE RESPONSIBILITY OF THE FAA, THROUGH ITS INSPECTION PROGRAMS, AND THROUGH THE CERTIFICATION PROCESS BY WHICH CARRIERS ARE PERMITTED TO CONDUCT COMMERCIAL PASSENGER OPERATIONS. CLEARLY, THE PUBLIC SAFETY DEMANDS THE MOST CAREFUL SCRUTINY OF THOSE WHO PROVIDE THAT SERVICE.

THE SUBCOMMITTEE'S HEARING WILL FOCUS ON TWO ASPECTS OF THE FAA'S AIR CARRIER INSPECTION AND CERTIFICATION PROCESS: FIRST, THE ROLE OF THE FAA'S FLIGHT STANDARDS DISTRICT OFFICES IN CARRYING OUT THOSE PROGRAM RESPONSIBILITIES, AND FAA REGION OFFICE AND HEADQUARTERS OVERSIGHT OF THEIR OPERATIONS; AND, SECOND, THE PROCESS EMPLOYED BY WHICH THE FAA DECIDES WHETHER TO REINSTATE THE CERTIFICATION OF A PART 135 CARRIER WHOSE OPERATIONS HAVE BEEN SUSPENDED OR REVOKED.

THE SUBCOMMITTEE WILL BE AIDED IN ITS OVERSIGHT BY THE CONSIDERATION OF THE CASE OF NORTHEAST JET, A PART 135 CARRIER OPERATING OUT OF ALLENTOWN, PENNSYLVANIA. WHILE IT IS NOT INTENDED THAT THE CIRCUMSTANCES OF THIS PARTICULAR CASE BE CHARACTERIZED AS EITHER TYPICAL OR ATYPICAL, IT IS IMPORTANT TO REVIEW SOME OF THE ISSUES AND CONSIDERATIONS INVOLVED IN THE FAA'S DECISION TO FIRST REVOKE AND THEN REINSTATE NORTHEAST JET'S CERTIFICATE.

THIS CASE STUDY MAY BE INSTRUCTIVE IN CONSIDERING HOW EFFECTIVELY THE FAA'S INSPECTION AND CERTIFICATION PROGRAM FOR SMALLER CARRIERS IS SAFEGUARDING THE PUBLIC.

AGAIN, MR. CHAIRMAN, I AM PLEASED TO JOIN WITH YOU, AND LOOK FORWARD TO THE TESTIMONY OF OUR WITNESSES. THANK YOU.

Mr. ANDERSON. Any further opening remarks?

[No response.]

Mr. ANDERSON. Our first panel today consists of four former employees of Northeast Jet: Mr. G. Thomas Beamer, former captain; Ms. Joan Szemplenski, former aircraft scheduler; Mr. William D. Telfer, former chief pilot; and Ms. Susan J. Woodward, a former management official. Would you please rise and raise your right hands.

Do you solemnly swear the testimony you will give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

[Chorus of I dos.]

Mr. ANDERSON. You may be seated.

Mr. Beamer, would you begin?

TESTIMONY OF G. THOMAS BEAMER, FORMER CAPTAIN, NORTHEAST JET; JOAN SZEMPLENSKI, FORMER AIRCRAFT SCHEDULER, NORTHEAST JET; WILLIAM D. TELFER, FORMER CHIEF PILOT, NORTHEAST JET; AND SUSAN J. WOODWARD, FORMER MANAGEMENT OFFICIAL, NORTHEAST JET

Mr. BEAMER. In responding to your letter of 17 May, I begin by stressing that I am only expressing my opinion; however, I believe a review of the information gathered by the FAA during the investigation will serve to confirm my comments.

I was employed by Northeast Jet from March 1985 until July of 1988. My initial assignment was as a co-pilot on Lear Jets flying on demand domestic and international charters. I was then promoted to captain, which position I held when I left Northeast.

Your letter expresses an interest in learning more about the relationship between Northeast Jet and the local FAA. While I have no direct knowledge, I can only question how the head of the local FAA office could be quoted in the local newspaper saying that Northeast's safety record was excellent and that the company was considered a competent and efficient organization, furthermore, confirming that 88 inspections had been conducted since October of 1987 without finding any violations, while at the same time FAA Eastern Region is conducting an investigation that resulted in the emergency revocation of the Operating Certificate.

In response to the March 6, 1989 letter from Northeast Jet's counsel to the FAA Eastern Region, it is claimed that no passengers were on board during an engine out flight from Helsinki to London. While I have no firsthand knowledge of this incident, rumors that surfaced during the investigation indicate that the flight was probably conducted without the required Special Flight Permit and that a flight attendant was on board. I understand that Northeast Jet's flight attendants had no formal training and were, therefore, really only passengers themselves. Furthermore, I have heard other instances where supposedly illegal engine-out Jetstar flights were rumored to have occurred.

The company claims that the compliance problems were not symptomatic of widespread intentional or fraudulent conduct sanctioned by Northeast Jet. It seemed to me that deliberately cutting corners was company SOP, a matter of expediency. Furthermore,

in looking at the record, I can only wonder why the company had an unblemished record of compliance. It is my opinion that the problems uncovered by the FAA had far deeper roots than rapid growth, as has been alleged by the company. From conversations with other pilots who had been employed by Northeast Jet prior to me, I have the impression that serious compliance problems had always existed.

It is claimed that Earl Holtz was not involved in the day-to-day operational decisions. It is my personal experience that Earl Holtz was intimately involved in all aspects of the operation. It seemed to be generally acknowledged that he alone had the authority to make decisions. Earl Holtz was frequently in the dispatch room, it was not the least unusual to be personally briefed and dispatched for a trip by Earl Holtz. And I have been personally berated, coerced, and threatened by Earl Holtz because I refused to land at an airport with an unacceptable runway, or because I refused a trip that required excessive duty time or allowed inadequate crew rest.

It is alleged that Paul Kaye was the fundamental cause of many, if not most, of the problems which led to the emergency revocation. In my dealings with Paul Kaye, I was left with the distinct impression that while he preferred to operate in a more acceptable manner he was prevented from doing so by Earl Holtz.

The company claims they were dedicated to professional training. It was my personal experience that from hiring in March of 1985 to October–November of 1985, I received no training whatsoever except 30 minutes of flight time which, in my opinion, was useless in preparing me for co-pilot duties. I never received any training in emergency evacuation, fire extinguishing, or hazardous materials during my tenure at Northeast Jet. In addition, I was informed after my initial flight that I had done well on my tests, which I assumed meant someone had falsified answer sheets. After the inspection was announced I was presented with a file of my training records and asked to sign for training that I had never received to satisfy the inspectors. I declined to do so.

It is my understanding, and this pertains to comments about Roger Mayer's experience, that he misrepresented his experience at the request of a company employee to meet the company requirements. Mr. Mayer also informed me that he was released for duties with less than one hour of training and that the additional six hours, shown as training, were a company "deadhead" flight that just happened to take place prior to his flying a revenue trip.

There is a question about a trip into Hilton Head with excess fuel. I was originally briefed for the trip. After I had refused it, both Meta Buttenheim and Earl Holtz attempted to coerce me into taking it. Furthermore, this was the second instance in which I had refuse a trip into Hilton Head due to runway requirements and been coerced by management, Earl Holtz.

Hilton Head has 4,000 feet of usable runway and on the trips in question I needed a minimum of 4,500 feet, and so I refused them.

I personally reported the Bob Tameris problem to the Director of Operations, Paul Kaye, and the Chief Pilot, Julian Bussat, in June and July of 1987. A few days later the Director of Operations called to ask me for names of co-pilots who he could talk with for confirmation. After investigating it further, he reported to me that Earl

Holtz said that he would personally deal with Tameris because it was a delicate matter. Furthermore on 23-24 December of 1987, Tameris was dispatched on three consecutive trips from ABE for a total continuous duty time in considerable excess of 24 hours. I find it difficult to understand how management can claim this was the result of an "over-eager or over-loyal" pilot taking things into his own hands. I believe that review of the monthly flight times and pilot pay records will tend to show that Tameris was rewarded for his zealousness. This would seem to be a means of condoning his actions.

I tend to believe the events on the trans-Atlantic flight with Bob Tameris occurred substantially as Mr. Gebert related them. Contrary to assertions, I found Mr. Gebert to be above average in experience and maturity. In addition to a substantial background as a pilot, he is an experienced aircraft and powerplant mechanic.

From conversations I have had with other pilots, I understand that most of the trans-Atlantic Lear flights were unable to climb to their assigned flight levels for the first few hours. As a result, they made false altitude reports to Air Traffic Control. Due to the false altitude reports and an absence of surveillance radar, the potential for midair collision was increased.

It is further alleged that Mr. Gebert, a licensed mechanic, was incapable of correctly reading an oxygen pressure gauge. Mention is also made of the availability of medical oxygen as a backup to the aircraft system. It is ridiculous to even discuss the use of portable medical oxygen in the event of a rapid depressurization.

It is alleged that there was no rampant abuse of flight and duty times, that pilots were able to decline flights without threat of discipline, and that pilots were not coerced into violating duty times. In my personal experience, nothing was further from the truth. I have been coerced, threatened, and disciplined by Earl Holtz on a number of occasions because I refused to accept flights that exceeded duty times or did not allow adequate crew rest periods. Furthermore, in conversations with other pilots, there were frequent bragging references to excessive duty days and inadequate crew rest periods. Duty days of 24 hours and crew rest periods of 6 hours seemed to occur with considerable regularity.

Under weight and balance there is a description of a flight I made in N158NE to Warrensburg, Missouri. The explanation is most ingenious but does not square with the facts. The co-pilot and I were briefed to fly from Allentown to Columbia, Missouri, purchase fuel there because Warrensburg did not have jet fuel available, then reposition to Warrensburg to pick up our passengers and make a non-stop return to Allentown.

Neither the dispatcher nor the airport directory I consulted at home made any mention of a runway weight limitation at Warrensburg. However, en route to our scheduled fuel stop at Columbia, I found that the airport chart for Warrensburg indicated that there was a 12,500 pound maximum weight limitation in existence at Warrensburg. I immediately called dispatch on the flight phone and was instructed by Meta Buttenheim to proceed to Columbia and call when I arrived. I did so at which point Earl Holtz got on the phone and demanded that I fuel at Columbia, as briefed, and land overweight at Warrensburg. When I refused to do so he

became agitated and then suggested that I fuel with gasoline at Warrensburg. During this conversation he asserted that the 15,000 foot altitude limitation when operating a Lear with gasoline had been eliminated. I have never heard of this change and to the best of my knowledge it has not occurred.

Subsequently, I landed at Warrensburg, departed with the passengers, landed and fueled at Columbia, and returned to Allentown. Assuming a 10,300 basic weight and 4,500 pounds of fuel, I would have been required to land at Warrensburg weighing 14,800, and with four passengers I would have departed at 15,600. This is in considerable excess of the 12,500 pound runway weight limitation.

During my first year or so of employment at Northeast Jet, we did not have any cargo nets. Subsequently, one net was purchased and then a second one. On one flight, when I was still a co-pilot and no nets were available, the pilot used maximum breaking and reverse thrust and the cargo slid forward into the cockpit. As a result, we had automobile water pumps in cardboard boxes lying on the pedestal where they almost contacted the throttles. It was not unusual to be dispatched for a freight trip while on the road and be unable to install a cargo net. Nor was it unusual to have multiple aircraft going on cargo runs and the company having no nets or too few nets for the number of trips dispatched. In my experience, the pilots all wanted and used when available, cargo nets. The pilots were quite concerned about the safety and legal aspects of flying without them.

It has been my experience that aircraft frequently flew for considerable periods of time with multiple maintenance discrepancies. The policy seemed to be to keep it in the air as long as a pilot could be coaxed into flying it. There have been times when dispatch told me I would be taken off a scheduled trip because it was expected that I would refuse to fly the aircraft due to uncorrected discrepancies.

The unwritten procedure for recording discrepancies required that we not make entries in the logbooks carried in the aircraft. All entries were made in a book kept by the Director of Maintenance.

[The letter Mr. Beamer referred to in his testimony appears on p. 174.]

Mr. ANDERSON. Thank you, Mr. Beamer.

Ms. Szemplenski.

Ms. SZEMPLENSKI. My name is Joan Szemplenski. I began working for Northeast Jet in April of 1986 and left in October of 1987. For three years prior to that I was employed as a charter broker and frequently used Northeast Jet's Charter Service. As a broker, I arranged many charters to and from LaGuardia, JFK, and Washington National Airports. These high density airports are required by the Federal Aviation Regulations to have an ARO (airport reservation office). These reservations are often difficult to receive and can only be made 48 hours in advance. Occasionally other FAR Part 135 charter operators would cancel my charter because they could not obtain an ARO or because of flight duty hours. Northeast Jet never cancelled my charters for any reason. I learned later as an employee that they never attempted to receive an ARO and

they violated flight duty regulations. I asked one of the Northeast Jet captains if they ever attempted to get an ARO. He said, no, and that if anyone questioned him he would say that scheduling takes care of it. He was aware of the fact that the office never attempted to make a reservation.

Mr. Holtz did not allow Paul Kaye to do his job properly. Mr. Holtz ultimately had the final say in the daily operations of the company. If a problem occurred during the night while I was on call, Ms. Buttenheim would tell me that she had to talk to Mr. Holtz and would call me back.

Mr. Holtz crewed the Jet Star. If he was not available, Ms. Buttenheim would crew the trip.

Mr. Doster, head of the Allentown FAA, and Mr. Holtz had a very close relationship. When Mr. Doster retired he was to become Northeast Jet's president and an office was prepared for him. Mr. Doster often stopped by Northeast Jet between 4:30 and 5:00. These visits seemed to be more of a personal nature rather than any type of inspection.

My comments in reference to Northeast Jet's letter dated March 6, 1989 to the FAA in New York are as follows:

1. Training. During my employment, over a dozen new hire co-pilots received less than three hours of training prior to flying their first revenue flight. Flight observation time would often be included as actual flight time. Observation time is when the new hire would watch over the shoulder of another new hire as the co-pilot flew the aircraft.

2. Robert Tameris. We crewed our Lear Jets by a method called first in-first out. When a pilot returns to Allentown his name would go to the bottom of the pilot roster and the pilot at the top of the list would go out next. If a trip went over duty time, overdue aircraft inspections, short runway, or more passengers than seat belts, Mr. Tameris would be picked out of rotation by Meta Buttenheim or Earl Holtz. If he was flying, another pilot would be selected out of rotation by one of them.

3. Flight and Duty Time. Pilots were coerced to violate flight and duty time regulations. If we had an ASAP charter, a crew who was on the road and out of duty time were called at their hotel and told to take the charter. If they had a problem with that, I would have them speak to Mr. Holtz or Ms. Buttenheim. A pilot was told that if he completed a trip that ran beyond duty time he and his co-pilot would receive a bonus.

4. Weight and Balance. Northeast Jet did not quickly dispose of the Jet Star that had an unusual operating weight. The management contract had expired and the owner of the aircraft elected not to renew the contract.

After briefing a captain for a pick-up in Philadelphia—an airport we used quite often—I questioned his excessive fuel load. He told me he takes extra fuel to keep peace with the company but dumps the fuel in the air before landing.

5. Cargo Nets. All cargo flights did not originate in Allentown; therefore, the crew would not always have a cargo net on board. One captain who started to refuse charters without a cargo net or an ARO was told by Mr. Holtz to take one month off from flying to decide if he wanted to be a team player. Days later when they real-

ized how short they would be, he was told he was back on flying status.

6. Maintenance. It was common knowledge by the employees that Northeast Jet had two different sets of maintenance records. The Chief of Maintenance once told me that he could do nothing about this illegal action.

I witnessed several screaming matches between Mr. Holtz and his Chief of Maintenance about when an aircraft would be in an airworthy condition. Mr. Holtz demanded the aircraft be available for the next scheduled revenue flight.

Mr. ANDERSON. Thank you.

Mr. William D. Telfer, former Chief Pilot, Northeast Jet.

Mr. TELFER. My name is William Telfer and I have been asked here today to present testimony on my first-hand experiences pertaining to Northeast Jet's violations of the Federal Aviation Regulations (FAR) and management's general attitude of compliance with the FARs.

In addition, I will be addressing Northeast Jet Company's letter to the Department of Transportation, FAA, Eastern Region dated 6 March 1989 regarding the revocation of Northeast Jet Company's air taxi operating certificate.

I am an Airline Transport Pilot with 6800 hours of flying time. I was employed by Northeast Jet on 20 March 1984 as a first officer. I was upgraded to captain in June 1984, and became the chief pilot in May 1985. I resigned from the company in June 1987.

I would like first to address Northeast Jet's letter to the DOT/FAA because in itself the letter summarizes Northeast Jet's operating practices regarding training, individual crew members, flight and duty time, weight and balance, cargo nets, and maintenance.

The letter begins with a statement that Mr. Earl Holtz and Northeast Jet will be "frank" and "candid" in its discussion regarding the problems of Northeast Jet. I would like to show, through example, specific instances where Mr. Holtz was neither frank nor candid. As for the "overstated" accusations made by former employees, I believe I can clarify many of these statements.

In the overview on page 2, third paragraph, a statement is made that "Northeast Jet Company was a financially sound carrier with an unblemished record of compliance over many years." Northeast Jet did not have any formal violations of FAR's; however, a look at the facts might raise some interesting questions.

On May 18, 1980 a Lear Jet 25, registration number N125NE lost directional control at 43,000 feet and crashed into the Gulf of Mexico. Although the aircraft was never recovered, extensive investigation was made of the Lear Jet's performance envelope at high speeds and altitudes. The NTSB report states that Northeast Jet Company aircraft were installed with "go fast switches" with the purpose of defeating the Lear Jet's installed high speed warning device.

More recent events involve dispatching aircraft with a nose wheel steering system wired in reverse. This required the pilot to make opposite inputs to receive the desired result. And, dispatching the aircraft with an inoperative/intermittent gear warning system that led to a gear up contact with the runway resulting in

damage to the fuselage and wing flap system. All this occurred while an unblemished record was maintained.

Regarding company finances, although I did not have access to Northeast Jet's accounting ledgers, from an operational point of view, the company was understaffed with administrative assistants which led to a backlog of paperwork, checkrides, ground school, and aircraft documentation. Pilots would often be required to purchase fuel and pay landing fees with their personal credit cards because Northeast Jet Company's credit had been exceeded. Purchases of required operational items were frequently neglected. Examples of these include international navigation maps, approach plates, and cargo nets.

Addressing paragraph 4 on page 2, Mr. Holtz was a hands on businessman/owner that gave little or no latitude to his middle management regarding operating expenses that required financial involvement. Although on paper Northeast Jet compliance seems exemplary, violations were in fact occurring on a daily basis. An example of this was the company's disregard to acquire high density airport reservations as required by the High Density Airports Rule, FAR 93, subpart K. Aircraft were personally dispatched by Mr. Holtz and Ms. Meta Buttenheim without obtaining the required reservations.

On page 3, paragraph 1, the statement is made that "Earl Holtz was not personally involved in any intentional violations of the FARs or any alleged fraudulent activities." As stated earlier, Mr. Holtz was Director of Operations/Owner when illegal "go fast switches" were installed in the Lear Jet. He was also aware that AROs were not obtained, and that no cargo nets were available for pilots.

On page 3, paragraph 2, the ultimate responsibility of the FAR lies with the certificate holder and its pilots. The FAA's mandate is to promote compliance through education. Unfortunately, in the mid-1980s pilots were skeptical of the FAA and its intent toward compliance. This skepticism allowed a gap to form between the pilots and the FAA. Pilots did not feel comfortable speaking with the FAA regarding compliance with the FARs. Certificate action against the pilot was too great a risk. This allowed companies such as Northeast Jet to foster an attitude of non-compliance because they were not challenged by the FAA or the pilots. This led to a compromise in public safety.

I believe that until pilots can voice their concerns openly with the FAA, operators will continue to pressure and coerce pilots toward violating the FARs.

Next is training. In-house training was always the desire of Mr. Holtz. This assured the absolute minimum cost of initial and upgrade training. The standard company policy was to receive one hour of initial training in a Lear Jet before being dispatched on your first revenue trip. The majority of new hire co-pilots had little or no jet time.

After receiving pressure from the insurance companies, Northeast Jet Company entered into a contract with Simuflite in Dallas, Texas, for Lear Jet recurrent training. However, the standard 12-hour course for recurrent training (6 hours per crew member) was reduced to just 6 hours total. This contract lasted about 4 months.

Page 5, paragraph 4 states that Mr. Mayer's training records indicate that he had approximately 7 hours of in-air training before he was dispatched on his first revenue trip. The fact that he received only one hour of training and that his last 6 hours of recorded training occurred on a revenue trip, which was more a normal procedure. The statement in the letter leads one to believe that Northeast Jet invested 7 hours of training before dispatching Mr. Mayer on his first trip.

As regards to Robert Tameris, he is an example of how Northeast Jet Company encouraged and condoned over-eager and loyal pilots. Proof of this encouragement can be found in the pilots pay records.

Being personally responsible for running computer printouts of monthly flying summaries, I could determine which pilots consistently flew greater hours on a monthly basis. The disparity became greater over a longer period of time. It was not uncommon for the discrepancy to be as great as 60 hours per month. This confirmed a favoritism to pilots that "got the job done." In addition, dispatchers were known to crew pilots for favorable trips based on their performance on past trips.

Flight and duty time. The company operating philosophy regarding crew duty was that when a pilot was dispatched his day ended 14 hours later. This fostered an operating norm that led to frequent over duty excursions based on many circumstances. This created an environment of fatigued crews and rampant morale problems. If a pilot questioned a duty assignment, it often meant a loss of flight hours.

Weight and balance. The company had a weight and balance problem with two aircraft. In both instances I did the actual weight and balance calculations for the aircraft and determined the operating limitations. However, trips were dispatched with improper loads. This, again, was because of pressure from management.

Page 9, paragraph 1, "Northeast Jet did not coerce its pilots to tanker excessive amounts of fuel or to fly overweight aircraft." A specific instance of management pressure occurred between Ms. Meta Buttenheim, Mr. Holtz, Mr. Randy Kroschwitz, and myself. Mr. Kroschwitz was dispatched to Washington Dulles Airport and was expected to tanker excessive fuel to reduce trip costs. Ms. Buttenheim discovered that fuel was purchased at Dulles and Mr. Kroschwitz was called in to give his reasons. After a heated discussion, Mr. Kroschwitz proved his point but not before management put him on the defensive.

Cargo Nets. From my hire date of February 1984 until February 1987 no cargo nets were available for use by the pilots. As chief pilot I voiced my concerns to the Director of Operations and although he was supportive he was unable to convince Earl Holtz of their need. In fact, money was first spent on cargo liners to prevent damage to the aircraft interiors before cargo nets were installed.

I received a letter from the Allentown FSDO late in 1986 regarding our method of cargo restraint. I was given this letter by Mr. Holtz and told to take care of it. The fact that no Form 337 for repairs and alterations was filed with the FAA regarding cargo nets, the FAA should have been alerted that we had none.

I contacted numerous companies regarding cargo nets but all proposals were denied. However, Northeast Jet continued to fly cargo flights with the FAA's knowledge.

In January 1987 I located a company in Texas that sold approved cargo nets at a cost of about $600. After notifying Ms. Buttenheim, I was allowed to purchase one cargo net even though we had five aircraft and multiple cargo trips were common.

Regarding the second paragraph under "cargo nets," the whole statement is ludicrous. Pilots had demanded cargo nets since I was employed. To pilots, flying without cargo restraints was unsafe and a flagrant violation of the FARs.

The fact that a pilot would forget a cargo net that would secure 2000 pounds of cargo directly behind him defies logic. In addition, the statement regarding seatbelts holds no merit. After sixteen years of flying, I never saw a pilot forget to fasten his safety belt.

Maintenance. Although I cannot comment directly on the Coatesville, Pennsylvania incident, I can shed light on standard maintenance practices.

Extreme pressure was placed on the Director of Maintenance with regards to aircraft down time for maintenance. No sooner than an aircraft was scheduled in for an inspection, Mr. Holtz and Ms. Buttenheim would start subtle pressure to move the aircraft. Frequent trips to the hangar to oversee the operation would be followed by more direct pressure as the allotted time drew near.

Many times aircraft inspections were completed in considerably less time than the industry standard. And at times, aircraft left the hangar with incomplete inspections to be finished at a later date.

It was well known that Northeast Jet Company had two sets of aircraft discrepancy records for each aircraft—one for in-house use and the other for FAA use. It will suffice to say that Northeast Jet Company made no attempt to use the aircraft discrepancy record the way the FAA had intended it to be used. In fact, there were few pilots that knew the FAA procedure of maintenance write-ups and deferred records of maintenance. Northeast Jet Company's method of discrepancy write-ups allowed the aircraft to be dispatched from the home base with open discrepancies while the official aircraft record showed none.

In conclusion, Mr. Holtz was a hands-on manager that became personally involved in all aspects of his company's operations. If a pilot failed to complete a trip to his satisfaction, he would reprimand him with abusive and belittling language, sometimes in front of his peers.

An example was with Mr. Alan Begg, a line captain with the company and well respected by his peers. Mr. Begg was dispatched on a trip from New York to Keflavik, Iceland. As stated previously, no international charts were available for him to use. Mr. Begg copied some charts from a local operator and for additional safety used an international flight planning company to obtain computerized routing at the cost of $46. When Mr. Holtz discovered this he reprimanded him and used abusive language.

This type of behavior was what fostered an atmosphere of low morale and allowed the company to slide into a careless attitude of FAR non-compliance.

Mr. ANDERSON. Ms. Susan J. Woodward, former management official, Northeast Jet.

Ms. WOODWARD. My name is Susan Woodward. I worked for Northeast Jet for approximately three years, from 1984 to 1987. I want to add at this point to make the committee aware that I was brought in as part of the management team and my title was vice president. I was hired to work in dispatch and to help manage during their foreseeable growth period. I was previously a client of Northeast Jet employed with Newsweek Magazine.

I had no previous knowledge of jets, flying regulations, etc. All I learned came from Mr. Holtz, Ms. Buttenheim, and Paul Kaye.

It saddens me that this company that had so much potential had in the end created its own demise. I am testifying because of all of the effort and time that has been spent by both former pilots and agencies investigating Northeast Jet that did in fact lead to Northeast Jet's license being suspended. It is frustrating and seems immoral that Mr. Holtz is back in business as usual.

As I was trained in only a Northeast Jet atmosphere, I feel it is important to relay what I learned. The client comes first—get the trip, get it done on our fuel, and get it done in the most economical way. This was the spirit Mr. Holtz conveyed from day one. He ran his company the way he and Ms. Buttenheim saw fit. In spite of the fact that he did have strong middle management—Mr. Kaye, Mr. Telfer, myself—he very seldom delegated. Ms. Buttenheim, who was close to being a financial genius, kept track of every penny, flight hour, and person that came and went at Northeast Jet and relayed all to Mr. Holtz.

I feel that it was because of her that all the pilot flight inspections looked "good." She checked them all—if there was an illegal duty time present, she sent the paperwork back to Mr. Kaye to "correct" with the pilot. They were very good at keeping things under wraps.

All practices were the same or, in my opinion, even better during the growth period as they seemed to be in the public eye more than ever. My normal work week was 35–40 hours in the office and 30–40 more at home working all night. In all my experience, Mr. Holtz was directly involved in operations when there was a problem, if we could get a hold of him. It is true he spent less time in dispatch and more on the business side during the growth period, but when there was a problem with a plane, pilot, or a ruling, he was involved. Ms. Buttenheim and I moved or dispatched all the planes although neither of us had any specific training. So she or I would contact Mr. Holtz or Mr. Kaye when there was ā question. If the answer we got from Mr. Kaye was not helping to get that plane out and the money made, then Mr. Holtz was called.

I am more than sure that phone logs would substantiate his involvement at specific times, even when he was out of the country.

Mr. Holtz was often verbally abusive, starting early on in my employment. He would tell me that he was the boss, it was his company, and I was to do what I was told to do. So I quit. He later apologized and I never had any trouble with him again, but many others who put up with his verbal assaults continued to get them.

Full fuel out of Allentown was company policy. I gave the fuel loads 50 percent of the time to line service from the pilots. That was the Northeast Jet way.

Mr. MCEWEN. Excuse me, Ms. Woodward. Could you explain that one sentence?

Ms. WOODWARD. Which?

Mr. MCEWEN. I gave the fuel loads 50 percent——

Ms. WOODWARD. Okay. For instance, I dispatched jets at night from my home, so I talked to the pilots, told them that we had a trip for them from, for instance, Teterboro to Raleigh, North Carolina. What fuel load do you need? They would say, okay, put full fuel on. I would call line service and line service would then have the plane and the fuel load ready for the pilot to fly off.

Does that answer your question?

Mr. MCEWEN. Fine. Okay. Thank you.

Ms. WOODWARD. There was a tremendous amount of pressure on each person because ultimately only what Mr. Holtz and Ms. Buttenheim decided was done. If he had been able to delegate authority, improvements might have been made, but he listened to Ms. Buttenheim, thereby digging both of them into the hole they are now in.

Mr. Kaye had the potential to be a great director of operations in many ways but was constantly overridden. Many times when a pilot refused to take a trip with a plane that had a mechanical problem, Mr. Kaye would take the trip himself to get Mr. Holtz and Ms. Buttenheim off his back and to protect his fellow pilots.

They ran their company like a two-person dictatorship with no real respect for rules or their employees. The more they grew, the more that hurt them.

Mr. Holtz, from my own knowledge, was involved in every jet that left with a problem, if we could contact him and we often did, even overseas.

From the time I started working there until the time I left, I was aware of a very cozy relationship between Mr. Holtz, Ms. Buttenheim, and Mr. Doster, as evidenced by the lunches they took, drinks after work at our office, drinks within the first month I went out to restaurants with them, and drinks and cake for him in our office on his birthday. Just before I quit Northeast Jet, Ms. Buttenheim informed me that they had offered him an advisory position at Northeast Jet at approximately $60,000 a year and that he may be retiring soon to take it.

There was a distinct atmosphere of pressure and the only way was their way—get the trip and get it done.

I never heard of cargo nets being used or offered or even required during my time there, and I again would have had to be the one to tell line service to install them.

Northeast Jet and Mr. Holtz had great potential. But they abused their license, their privileges, and their employees. If it was necessary for him to learn by all the violations and ill will he has condoned, why should he be given the chance to try again? What excuses him from following the laws?

As for Mr. Tameris, the "Northeast Jet Policy" was if there was a questionable trip (duty time, airport landing length, etc.) we

could and would call Mr. Tameris who always said yes. Mr. Holtz was well aware of this.

In response to duty time, pilots were expected to falsify their records.

If pilots declined trips for mechanical reasons, flight duty time, etc., Ms. Buttenheim would be sure to keep track of it and, if possible, their flight hours would be down or they would get stuck out on the road.

Both Mr. Holtz and Ms. Buttenheim, who wielded great power over Mr. Holtz—she said he would always do what she decided—put tremendous pressure on maintenance and hired people to get things done the way they wanted them to. Mr. Holtz and Ms. Buttenheim solely ran the company using employees only because it was a necessity.

Although I felt at times Mr. Holtz was ready to make positive changes in the management of Northeast Jet, Ms. Buttenheim never gave him the chance. However, he chose the path his company took, and he is ultimately responsible for all that happened.

I hope that my testimony and the testimony of former employees of Northeast Jet will help the committee to see the importance of not rewarding companies that abuse their privileges.

Mr. ANDERSON. I have questions for each of you. Mr. Beamer, what were the circumstances behind your leaving Northeast Jet?

Mr. BEAMER. I was fired nine days after the inspection began. I was given no real reason except I wasn't available for trips. That's very interesting because I'd flown a trip the day before I was fired.

Mr. ANDERSON. Ms. Woodward and Ms. Szemplenski, you both mentioned in your opening statements that John Doster, the head of the local FAA, regularly visited Northeast Jet offices. Could you describe for us the nature of those visits and the frequency?

Ms. SZEMPLENSKI. They seemed to be friendly and no business was discussed, and they usually went behind closed doors and line service would bring glasses and tonic water to the office. The visits lasted for maybe a half hour to an hour.

Ms. WOODWARD. And I'll substantiate that they didn't seem to be friendly, they were friendly. And there was other items added to the tonic water. And it was all on a social basis from what we saw other than at times I note there were discussions about how he could help Northeast Jet in management problems that they were having in terms of complying with rules as they got older, which was the job that he was eventually offered.

Ms. SZEMPLENSKI. I'd like to add that our scheduling board in the scheduling office, Mr. Doster came in one day and started asking me some questions about it. And I started to explain to him how we kept track of the airplanes and duty times, and his response was that it sounds too confusing for me. And he just chuckled and left.

Mr. ANDERSON. Mr. Telfer, was there a specific time or incident that convinced you to leave the company?

Mr. TELFER. Well, it was over a period of time that I slowly lost faith in the company's ability to forge ahead and become a really substantial company. I don't think there was really any one thing that actually caused me to go over the edge except for the fact that I had an international trip with Mr. Holtz and another pilot,

Robert Steffess, for about a week in May '87. During this trip I started to realize that my life was really going down a dead-end street in this company; so I decided to make a move and try to get to another company that would be better.

Also during that trip while we were flying the aircraft, we proceeded from Nice, France to Dubai, which is in the United Arab Emirates. During that flight we had a routing that allowed us to go through Cairo and down that way (over Saudi Arabia) and Mr. Holtz decided that he wanted to fly down another airway over Damascus and over restricted Syrian air space. It took Mr. Robert Steffess and me about an hour or maybe 45 minutes to convince Mr. Holtz to turn around and not fly down this airway. In addition to that, another commercial operator came on the frequency and advised us not to continue down the airway. And this was just kind of an icing on the cake when I decided that I should probably be moving on.

Mr. ANDERSON. Weren't the controllers telling you to stay out of there?

Mr. TELFER. Yes, and the controllers also were telling us to turn around.

Mr. BEAMER. I think it's interesting—excuse me—that this incident occurred two weeks after the USS *Stark*, and as Bill has related, the Syrian controllers warned them to stay out of the airspace because they didn't have an overflight permit, possibly risking an incident as I understand it—I wasn't on the flight—but from the details as Bill's related to me in the past.

Mr. ANDERSON. Ms. Woodward and Ms. Szemplenski, how were pilots selected to go on trips? And were pilots ever disciplined if they raised safety concerns?

Ms. WOODWARD. I think I'd like to answer that first because I started my employment there before Joan. Originally when I came to Northeast Jet, pilots were simply called by random to take flights. Since we were a 24-hour business, this could cause problems at night with pilots' social lives because no one knew if they were on call or not. So we would just call pilots, ask them to take flights. We did not know whether they were having drinks or not having drinks. Some of them said yes, some of them said no.

I started and they agreed to a system where we would have a schedule. We put certain pilots on schedule at night, and then they, therefore, would have to be on a beeper and be on call. Later on we went to a first-in, first-out system where the pilots went to the bottom of the list as soon as they got in. But that was broken whenever we came upon a problem or a Tom Beamer who would not take a flight because it was over duty time or had a problem. And if he refused it, my job was to ask them if they would take the flight. If they refused it, my job was to call Ms. Buttenheim, Mr. Kaye, or Mr. Holtz. And I very seldom, possibly twice can remember us ever not taking a flight with our own jet unless we had no jets available or we could not find Mr. Holtz, which happened twice where a pilot or Mr. Kaye said we cannot take a flight because of a mechanical on this plane. And since we could not find Mr. Holtz to get this plane out, we did not take that flight. That very seldom happened.

They were rewarded. If they took their flights, they got more flight hours. If they were difficult and didn't take flights, we'd skip them.

Mr. ANDERSON. And if they raised safety concerns, were they ever disciplined?

Ms. WOODWARD. I'm not a party to what happened between Mr. Holtz and the pilots themselves, but I know they were verbally abused.

Ms. SZEMPLENSKI. They would be called into the office if they refused a trip, the next business day, and behind closed doors reprimanded.

Mr. BEAMER. Excuse me, but I think that Joan and Sue will both agree that we were, in fact, disciplined because if you were out on the road and refused a trip because of some safety concern, you might be stuck in the hotel for a number of days without any flights.

Ms. WOODWARD. Well, that's punishment.

Mr. BEAMER. Yes. You might be put on standby at Allentown where you had to be within an hour's reach of the airport for days at a time without a flight. And, of course, you didn't have any income. In July of 1987 I was on standby three to four days, three weekends in a row, first out, which meant that I should have been the next person to fly. And airplanes were coming and going and I was sitting at home on standby, and I'm sure this occurred because I had refused a number of flights that were overduty time, short crew rest, the runway was too short, or there were maintenance discrepancies. I think both of the ladies will concur with that.

Ms. WOODWARD. And I think you have to understand also that they were in a growth period, so they had to punish in a way that would hurt the pilot but not hurt us. If we needed him to fly, we wanted him to be available to us, so we weren't going to let him go or fire him; but they would do whatever they could to make him know that his attitude wasn't appreciated.

Mr. ANDERSON. Mr. Beamer, you stated that you have been personally berated, coerced and threatened by Earl Holtz. Now, could you explain for us the circumstances behind those incidents, and do you know of other pilots who had similar experiences?

Mr. BEAMER. The incidents got rather numerous, and detailing the individual incidents could be a little time consuming. Some of the incidents occurred on the telephone because I refused a trip into Hilton Head and the runway had 4,000 feet usable and I needed 4,500 feet to legally land the airplane. I was coerced—he attempted to coerce me into taking the trip; I refused it. And then they put me in a hotel and said I'd sit in the hotel for a couple of days. That was Mr. Holtz himself.

The other trip was the trip we discussed in Warrensburg, Missouri, in which I was supposed to fuel the airplane at Columbia because there was no jet fuel at Warrensburg, and that was going to require me to land a couple thousand pounds overweight for the runway weight limitations at Warrensburg. And Mr. Holtz demanded that I do it, and I refused; and he became abusive, swearing and shouting. And then he demanded that I go to Warrensburg and fuel with gasoline. Well, there were two reasons why I couldn't do that because I couldn't fly over 15,000 feet with gasoline on the

Lear Jet, and also with gasoline on board I would be overweight in departing Warrensburg.

So finally I went to Warrensburg, picked the passengers up and fueled at Columbia and everything was legal.

One Friday I refused a trip on a Saturday because I was going to be a couple of hours short on crew rest, and the result of that is that Earl Holtz demanded—after I got home, Earl Holtz called me at home and demanded that I come in on Saturday in uniform and sit on standby for 14 hours. There was no other crew members. There were no airplanes in town. Everything was scheduled. I was being made to pay penance for refusing the trip. It was a frequent occurrence.

Mr. ANDERSON. Do you know of other pilots who have had similar experiences?

Mr. BEAMER. Absolutely.

Mr. ANDERSON. Can anyone on the panel ever recall a situation in which a revenue flight was turned down by Mr. Holtz because he expressed concerns that such a flight would have meant a violation of Federal Air Regulations.

Ms. WOODWARD. I can only remember two, and he was not available to be reached by the phone. There was a certain method that Northeast Jet had, and that was ask the pilot if they'd take the trip. If they say no because of a maintenance problem or whatever, then start going through your pattern of call Meta or Earl and then Earl would rectify the problem. And those planes always got out that Earl dealt with.

Mr. ANDERSON. Mr. Telfer, Northeast Jet blames most, if not all, of the safety violations on the Director of Operations, Mr. Paul Kaye, is that true?

Mr. TELFER. Well—can you repeat that question please?

Mr. ANDERSON. Northeast Jet blames most, if not all, of the safety violations on the Director of Operations, Paul Kaye, is that true?

Mr. TELFER. Well, no. Paul Kaye's purpose in the company was the go-between for the management, which was Earl Holtz and Meta Buttenheim, and the pilots. And I was one step down from Paul Kaye. The pilots would come to me and voice their concerns regarding crew duty, cargo nets, and so forth. I would go to Paul Kaye and ask Paul Kaye if we could possibly obtain cargo nets or help with the crew duty or work with weight and balance. And Paul would try to the best of his ability, go to Mr. Holtz and try to change these policies. But it was always a dead-end.

Many times I was at Paul Kaye's house for dinner or talking about the company, and Earl Holtz would call Paul directly and start to be abusive with him and try to browbeat him down—for any reasons that happened to be for that day, any problems that occurred during the day. It was just an ongoing thing, and he was always on the defensive with Mr. Holtz. I think it was Paul Kaye's direct intention not to violate any FARs, and if he could get around them, he would.

Ms. WOODWARD. I'd like to add one other thing, too. As the company grew, we started having pilot meetings where pilots could voice their concerns. Mr. Holtz was present at most of those and seemed to take a genuine interest in trying to move us in a more

positive direction. And I attended those meetings. But Ms. Buttenheim who had the control over Mr. Holtz—some control—would not go to the meetings and would say blatantly to me—and Paul Kaye tried very hard to make these pilot meetings work—she would say that it doesn't matter what's decided in the pilot meetings. When it gets back to me, it's going to be changed. And it was. We came up with new ideas, with more positive directions, some of which Mr. Holtz would go along with to a certain degree. And at one point or another it was squashed.

Mr. TELFER. Mr. Kaye and I set up a beautiful schedule for the pilots and that was one of their biggest concerns that they had days off so that they could rest and recuperate. And we set up a schedule in January of 1986 and we had 30 pilots on the schedule at this time. For the first month it worked beautifully, and then after that month since the dispatchers could not encourage bad behavior, the schedule was disbanded and the schedule went back to a first-in, first-out basis with no particular days off, no set days off.

Ms. WOODWARD. We also suggested, for instance, one idea was if we're going to have pilots out on the road because that's economical for us which meant they might be on the road for a week stuck in one place, that we would reward them by paying them a company penalty for leaving them on the road while we're still able to make money that way. That went through as far as I know all the ranks until it got back to the money person, Ms. Buttenheim, who said absolutely not. So any progress that Paul Kaye or Bill Telfer tried to make or myself or even Mr. Holtz, ultimately he was not able to follow through with and he did not.

Mr. BEAMER. I was most unpopular because of my refusal to fly airplanes with discrepancies and duty time and crew rest as I've said, and there have been a number of occasions where I've had meetings with Earl Holtz and Paul Kaye. And after we left the meeting Paul told me that he supported me and I was correct in the decisions I made and he was just trying to do the best he could to keep peace with Earl Holtz. And the problem was, in fact, Earl Holtz. My experience is that Paul Kaye knew how things were supposed to be done and wanted to do them correctly but was thwarted in doing that by Earl Holtz. Paul has told me that he has been physically threatened by Earl Holtz.

Mr. ANDERSON. Mr. Telfer, since you also held a key management position, were you in a position to overrule decisions by Mr. Holtz which may have been contrary to Federal Air Regulations?

Mr. TELFER. No, sir, not at all. There were times when we discussed things such as cargo nets. One of my big concerns was international navigation maps and approach plates for the international aircraft. Continually we would only purchase the approach plates on a six-month basis instead of a recurrent bi-weekly subscription. And this allowed the aircraft to be dispatched for a matter of months at time without any current approach plates. Again, these were just situations that occurred on a day-to-day basis and there was absolutely no way you could budge him.

Mr. ANDERSON. Mr. Beamer, could you explain the process for recording mechanical discrepancies? In other words, what were the two sets of maintenance books as described in the FAA Revocation Order?

Mr. BEAMER. We had one set of log books in the aircraft in which discrepancies are normally recorded. There was a place right next to where you recorded them that corrective action was taken—either the discrepancy was repaired or you went to the minimum equipment list and found that you could continue to operate the airplane with the discrepancy placarded something as being inoperative and flew the airplane until you got it fixed.

However, at Northeast Jet we never made any entries in the maintenance records in the aircraft. The result was that anyone who inspected this would look at the log books if we were, say, in Pittsburgh and the FAA came out to give us a ramp check, they would look at the log books and find that the airplane had no discrepancies. We never at any period of time I was there made any entries in the maintenance records in the airplane. Instead you would keep a list of the discrepancies on a piece of paper; and when you came back, you'd go to the Director of Maintenance desk and he had a book in there you recorded the discrepancies in.

The Minimum Equipment List, which was required to have on the airplane, and if something was inoperative, you'd go to it and decide whether you could fly the airplane with it inoperative or not, was not even consulted. There was no training given. There was no reason to even look at it. If a pilot could be talked into flying an airplane, you'd take the airplane. And if the pilot that was scheduled for it wouldn't fly it, they'd find somebody else.

Ms. WOODWARD. And if maintenance wouldn't release it because of a problem, then Earl Holtz would get on the phone and maintenance would release that jet.

Mr. BEAMER. I have been told that the airplane that did the skid and go landing at Coatesville without the inoperative gear warning horn was—I understand from a mechanic the plane was on the jacks and the problem was being trouble-shot when a trip came up and it was taken off the jacks and it flew for a subsequent 30 days before the skid and go occurred. I personally took a check ride in that airplane with an inoperative gear warning horn almost a month before the skid and go and flew it three more times with the inoperative horn. That was just standard practice. It didn't matter. A horn was a minor thing. We were going to fly the trip.

Mr. ANDERSON. Mr. Beamer, did Northeast Jet have advanced knowledge that the FAA was going to conduct an in-depth inspection; and if so, did the company take any action?

Mr. BEAMER. I was notified on I think it was the 11th of July by the Chief Pilot, Barry Panasik, and the Director of Operations, Julian Bussat, that there was a forthcoming FAA inspection, and that the company only had to show records in the preceding 30 days and that I should go back and check my manifest and make sure they were all correct. I did so. I found three that had very minor problems, mentioned them to the Chief Pilot. And when I came back from my next trip, there were corrected copies of those manifest in my mailbox. And it's my understanding that Bob Tameris in particular was doing a wholesale rewrite of his manifest. From what I've heard, there were other people who were correcting manifests also.

But the company did have at least 11 days advance notice that there was an inspection coming.

Mr. ANDERSON. Mr. Telfer, as Chief Pilot, did you feel that the training program at Northeast Jet was adequate to properly train your work force and ensure safety?

Mr. TELFER. Well, initially when I was hired, the training was very minimal. As the company grew, we hired a Director of Training to run the Training Department. For a period of time the ground school and the flight training was, I believe, the bare minimum but adequate.

Unfortunately, every time the Director of Training would try to schedule aircraft for training operations, the dispatch operations would take the aircraft away from the Training Department and would schedule it out on a trip. So that the end result was that it was very, very difficult to get an aircraft available for training. I think that the end result was that there were very few really good dedicated training rides. The majority of the training occurred on empty legs in between charters.

Mr. BEAMER. I had no ground school of any sort for the first six to eight months I was with the company. I went on the line with 30 minutes of flight training, period.

Ms. WOODWARD. Mr. Anderson, I would like to add also that to get the overall picture of why this was happening, again, you have to go back to finances. The pilots and the training people were working on the side of spending money to get the pilots ready to go out on trips and to make them safe, and we in dispatch were in the business of making money and not spending it. We knew the cheapest field prices all the way. We tankered fuel whenever we could at the cheapest places, home being the first stop.

And that included our training. If someone was going to go out on a training flight, it was practiced to try to get—in the beginning to try to get that not to happen, to save money and to put them on a leg where a customer pays so that Northeast Jet isn't paying to have that pilot trained.

Mr. ANDERSON. Ms. Woodward and Ms. Szemplenski, from your experience as both customers and employees of Northeast Jet, did the company regularly offer the lowest rate?

Ms. SZEMPLENSKI. As a broker I would try to get three different charter quotes for one particular trip. More often than not, Northeast Jet's price was the lowest; and if it was not the lowest, I would tell them that I got a better price with someone else. They would ask me what it was and match it. And that was the same procedure that we used after I was employed there. If a customer said, we're not going to use your service because we got a better price, I'd get price and ask Ms. Buttenheim if it was okay if we matched it.

Mr. ANDERSON. Mr. Telfer and Mr. Beamer, what effect, if any, does an operation like Northeast Jet have on the rest of the charter industry?

Mr. BEAMER. I think it's fair to say that we reduced the industry to the lowest common denominator. I think if the regulations are enforced—and they are minimums—and I think if the regulations are enforced to at least minimum standards. everybody is operating from the same level.

If you have people operating in the manner Northeast Jet does and everybody is trying to cut corners to be price competitive. I've

talked to some charter operators who if they get an excessive duty day—let's say a trip to Denver, and the crew is going to be over 14 hours, they send one crew out on the airlines the night before, one crew takes the people up, and the second crew returns them. And that's the way it should be.

I will say that in my experience as much as I resisted excessive duty days, I think it's fair to say that every six months I had a 24-hour consecutive day without rest. And some people did that with regularity; 18 hours was pretty common as I understand it.

Mr. TELFER. I agree with all that he said.

Mr. ANDERSON. Mr. McEwen?

Mr. MCEWEN. Thank you, Mr. Chairman. Mr. Beamer, where were you trained to fly, could I ask?

Mr. BEAMER. I learned at a little country airport in the Harrisburg area.

Mr. MCEWEN. You weren't in the service or anything?

Mr. BEAMER. No.

Mr. MCEWEN. Do you still fly for a living?

Mr. BEAMER. I'm freelancing right now, that's correct.

Mr. MCEWEN. Do all of you still live around Harrisburg?

Mr. BEAMER. No, we're from Allentown. Well, I live in Bethlehem and everyone else has moved out of the area now.

Mr. MCEWEN. Explain to me how you fly without a reservation into a high density airport.

Mr. BEAMER. It's real easy. The controllers don't check to see if you have a reservation. As I understand it, the airport reservation office is supposed to do a random spot check of reservation numbers and match them with reservations. But all you do is file a flight plan. When you show up, the controller lands you. The controllers do not ask you for a reservation number or anything of the sort.

Mr. MCEWEN. To your knowledge, was Northeast Jet—were there ever any complaints from the FAA about that?

Mr. BEAMER. Not that I know of.

Mr. MCEWEN. And the random checks, they never came across Northeast Jet——

Mr. BEAMER. Not that I know of.

Mr. MCEWEN. All right.

Mr. BEAMER. I wasn't privy to the inside knowledge there.

Mr. MCEWEN. Do you think they ever do that? Do you think the FAA does this?

Mr. TELFER. I don't know if the FAA ever checks for airport reservations. I believe that there is a separate company that actually operates the ARO system and then they report to the FAA with compliance. But I'm not really actually familiar with the whole operation itself.

Mr. MCEWEN. You mentioned about approach maps. Is that the proper terminology?

Mr. TELFER. Approach charts for airports.

Mr. MCEWEN. Do you have any idea what the difference between the bi-annual and semi-annual—I mean bi-monthly and semi-annual charts are?

Mr. TELFER. Well, the approach charts revisions for international, for Europe, come out every two weeks. And in a two-week

period of time there could be a substantial difference in the landing minimums for an airport. There could be a tower that had been erected in the approach area. There could be a change in frequencies for the approach system, ILS system. There could be substantial difference as far as safety is concerned.

Mr. MCEWEN. Do you have any idea what the difference in cost is?

Mr. TELFER. Oh, the difference in cost?

Mr. MCEWEN. Between semi-annual and bi-monthly?

Mr. TELFER. Oh, well——

Mr. BEAMER. Couple hundred bucks.

Mr. TELFER. I'm not sure. What they would do is they would just buy the revisions—charts without revisions.

Mr. BEAMER. Buy the charts without the revisions.

Mr. TELFER. The recurrent charge would be an ongoing cost.

Mr. MCEWEN. Mr. Telfer, what is your flight background training experience?

Mr. TELFER. I went to school down in Florida, Emby-Riddle Aeronautical University in Florida and graduated from there in 1980 and started flying for 135 operators up in Binghamton, New York and Ithaca, New York, and then I progressed down to a Northeast Jet, and I currently work for a corporation.

Mr. MCEWEN. What did you fly in Ithaca, if I may ask?

Mr. TELFER. In Ithaca I flew a turbo-prop and piston engine aircraft.

Mr. MCEWEN. Did those companies operate significantly different from Northeast Jet?

Mr. TELFER. I would say that all the companies I worked for had a method of compliance that was not 100 percent. There was always a certain avenue they had to go around to make the operation work. For example, the one company I worked for, the aircraft that we operated had a very bad CG situation—center of gravity location for their aircraft. With the amount of passengers that we normally flew, we sometimes ended up with an AFTCG. We tried to correct this problem with ballasting the nose and so forth. These were minor problems that occurred, and I think that this is kind of a normal thing that happens with most of these companies.

Another thing was, of course, duty time. But that was not as rampant as, Northeast Jet because Northeast was a much more diverse company with much longer legs, flying legs.

Mr. BEAMER. I think it's fair to say that, as Bill said, nobody's got a perfect compliance record; but my feeling is and I think the FAA confirmed it with the Emergency Revocation for rampantly ignoring the regulations.

Mr. MCEWEN. My purpose is not to add layers of black paint on Northeast Jet. I want to know if this is more the norm than——

Mr. BEAMER. Well, I worked for Reading Aviation Service for 10 years, and we ran a basically clean operation. We had a commuter and charter operation and flight school and maintenance. And the operation was pretty much by the book.

Mr. MCEWEN. Then tell me this, who do you think is more responsible for that—the reason that company is a good operation—the management or the FAA?

Mr. BEAMER. The management.

Mr. MCEWEN. Does the FAA have anything to do with it at all in your——

Mr. BEAMER. FAA has a lot to do with it; but if you look around, there are more people flying airplanes than there are people regulating people who fly airplanes.

Mr. TELFER. I'd like to make a statement that when I worked in Ithaca and also in Binghamton we fell under the Rochester Flight Standards Office, and I would have to say they ran a real nice show up there in that our methods for maintenance and maintenance discrepancies were exactly the way the FAA had designed them, and there was absolutely no problem with actually running them that way. As a matter of fact, when I reached Northeast Jet, I was surprised that a company of that stature was able to operate without having an approved system and that the system was so really archaic. The way the FAA had designed the system, it actually operates quite easily and it prevents a lot of discrepancies to be missed.

So as far as the Rochester GADO was concerned, they did an excellent job as far as maintaining compliance with the FARs, regarding the companies that I worked for in Ithaca and Binghamton.

Mr. MCEWEN. But is that the company's fault or the FAA's fault?

Mr. TELFER. Regarding these methods of compliance—I think the responsibility ultimately lies with the company itself and that it is the company's responsibility to make sure that the system that they have operating is in compliance with the FARs. The FAA should be there to help and educate them if there is a need to be educated, to make sure that the system is operating correctly.

Mr. MCEWEN. You look like you were about to say something.

Ms. WOODWARD. I was, but—I think if I understand you correctly, the point you're trying to make is it was the FAA's responsibility, and that's like me saying to you whose responsibility is it if you're caught by the IRS. Is it theirs to find the fault with you or is it your responsibility to abide by the rules?

Mr. MCEWEN. It all depends on whether or not I am a manager at the IRS office. And if I am a manager at the IRS office, it is my responsibility to make sure we catch everybody we can that's violating a law. Your offense is with Northeast Jet and you don't want them off the hook and they're bad folks—I really can't do anything about that right now.

I need to make sure we have a system in place that when this sort of activity happens, that somehow or another we put a stop to it because my next question is how do we find out, is there any way we could have discovered these violations without the cooperation of others. And I want to know whether or not we have the capacity to keep this from happening, because I, for one, don't want to get on any 135 as long as you're telling me they're putting ballast in the nose just to keep the things flying. I'm not overly impressed with this operation at all. I want to find out are we 100 percent dependent upon you sitting in the office with your owner over there running this operation until such time as you get fed up and

walk out. Is that the only way we're going to keep a safe commuter system in America? That's my concern.

Ms. WOODWARD. And my point that I wanted to make sure you were clear about is that the system now you're right is not working. It isn't to do with Northeast Jet, it's to do with the fact that Northeast Jet abused these privileges and the same concern that nothing was ever done to stop them. And it doesn't matter if it's them or someone else. And the fact of the matter is that it is very difficult unless the FAA is involved regularly in that airline to uncover what was going on at that company in particular.

Mr. MCEWEN. My next question is, do you have any idea as to how the Flight Standards District Office can prevent this activity from going on if there is a conspiracy between the pilots, the maintenance officers, the schedulers, and the owner to keep them from finding out?

Mr. TELFER. I think that would have to involve tremendous education of how the system works and how the pilots and maintenance people and dispatchers can change numbers and basically fool the system, pertaining to the FARs. I think it's just an educational process that the FAA has to learn, they have to understand how we can do it, how it can be accomplished.

Mr. MCEWEN. Do you think the FAA deliberately ignored some signals that they should have seen?

Mr. TELFER. I don't think that the pilots gave the FAA a fair chance in Allentown from a standpoint of alerting them to the problems of the company. I'm not aware of really too many pilots that actually went and talked to the FAA people in Allentown and said, we have a problem at Northeast Jet. And as I stated in the letter, I think that the problem was that in that time frame, 1985, the FAA was into a real heavy enforcement action and most pilots were afraid to come forward and say, yes, I am violating my flight duty times, I am operating an overweight aircraft and so forth. The FAA would much rather, it is much easier to violate the pilot and suspend his license and tell him go now and sin no more than to go after the certificate holder of the operation which would be a much more complex process.

The ultimate responsibility lies with the pilot in command. So if we can deter pilots from flying the aircraft over gross and out of duty time, then we can stop all these problems. But it's not that simple. We have to go to the source. Poor management.

Ms. WOODWARD. I think also from the pilots' point of view that they are saying that they need to have the openness with the FAA to report these problems, but also I think it seems that a problem that I've seen as I've been involved in this investigation is what's the penalty if you do offend it. You have a license, you get a license. It's a privilege granted. And what's the penalty if you abuse it? I'm not talking about Northeast Jet; I'm talking about any airline carrier. There's a lot of money to be made in doing business the way Northeast Jet did it. And we were the best; we were the best at getting trips out, getting them done and getting them done in the right way for the customer. So that if there's that potential to make money, there's got to be I think a penalty for the abuse of that privilege. It doesn't seem that there is one in the FAA system. There's a hand slap and then that's it.

Mr. MCEWEN. My difficulty is that there's not only a penalty, there's not even a notice of the violation.

Ms. WOODWARD. Good. We agree on that.

Mr. MCEWEN. I've got to make sure that they know that there's a violation, and we have a way to find this out. There's another level that we're going to take up with the FAA as to why once they find it out, why they don't do something. But the only way that we find out is when everybody quits and raises a big stink and they take the Flight Standards District manager, the director, and lay him off and a few other things. Then we can get one of these at a time. That's not my concern. I want to get them booked so we don't have to just pick one every five or six years. I want to make sure it doesn't go on at all, period. And I don't know how we get there yet. I'm not getting a whole lot of answers.

Mr. BEAMER. I'd like to say that most of us in the aviation community—pilots, mechanics—know who we don't want to work for. Companies that do it right have reputations within the community. Companies that cut corners have reputations also. And it doesn't take much talking to find out who's fairly good and who's not so good. There's a lot of that intelligence out there if people are willing to——

Mr. MCEWEN. Okay, I'm not.

Mr. BEAMER. I'm not talking about you.

Mr. MCEWEN. I'm not going to go out and sneak around. How many planes did they have?

Mr. TELFER. We had 10 aircraft.

Mr. MCEWEN. All Lears?

Mr. TELFER. At the peak we had five Lear Jets—correction, six Lear Jets, three Lockheed Jetstars, and one Gulfstream jet aircraft.

Mr. MCEWEN. Thank you very much.

Mr. ANDERSON. Mr. Borski.

Mr. BORSKI. Thank you, Mr. Chairman. I first want to thank our panelists for their excellent testimony. Mr. Beamer, I'd like to start with you, if I may. You stated earlier that there were a couple of occasions where you refused to take out planes—one I think where the strip was too short, another time when the plane may be overloaded. Why would you refuse then? Was it because of the FAA violations or was there a safety or life and death outcome?

Mr. BEAMER. I believe in operating airplanes within the limitations that the airplane is certified with, and I believe in operating them within the regulations. I looked at it, and the runway was too short, the duty day was too long. It was going to affect both the legal aspects of the trip and my license and it was also going to potentially affect safety. I think the duty time and crew rest violations definitely impacted on safety.

Mr. BORSKI. And that's my point. It's not simply because it was a violation; it would have some effect on safety.

Mr. BEAMER. There were things I did that were illegal. There were things everybody does. Things we all do in a car that are illegal. Sometimes you make a trade-off. But when safety is involved, you just don't do it.

Mr. BORSKI. What would happen if you tried to land an overloaded plane?

Mr. BEAMER. Well, I was never in a position that there was even any reason to land an overloaded airplane, because I always made sure that when I got to my destination my load was correct. I think the incident that you're talking about is the Warrensburg, Missouri incident. The company tries to claim that I refused to land there because I was too heavy when I got there. The truth is I refused to land there with the fuel to come back to Allentown because the runway weight limitation was 12,500 pounds and I was going to have to land well over 14,000 pounds. What's the possibility? Well, the possibility is you sink into the runway. I had never been to the airport; I had no knowledge of what the runway was like. It could have just been a tar surface on top of some clay out there. And the possibility is you damage the runway, damage the airplane.

The other instance—and this is not something I personally was involved in—but the people who tankered fuel were consistently landing the airplane overweight. I have heard of people landing the Lear Jet 1,000 pounds overweight. I've heard stories of them landing the Jetstar, I think, 10,000 pounds over max landing weight. Well, there you put a stress on the landing gear, the wing, the fuselage, the entire structure. And at that point if you've landed that airplane overweight once or you've landed overweight consistently, you bring the whole structure and the whole integrity of the airplane into question for all subsequent flights. Some of those airplanes are flying today.

Mr. BORSKI. Mr. Beamer, did I hear you correctly that at one point you flew for 24 straight hours.

Mr. BEAMER. I didn't fly for 24 straight hours; I was on duty for 24 hours straight without rest a number of times.

Mr. BORSKI. Do you know of other pilots in other situations to that effect?

Mr. BEAMER. Absolutely.

Mr. BORSKI. Ms. Woodward, in your testimony you say the client comes first. Get the trip, get it done on our fuel and get it done in the most economical way. Where does safety fit?

Ms. WOODWARD. Only in the most economical way. When we had time to work on planes, we fixed them. And if we had trips to run, they came first. Making money, which is not a bad attribute for a company, was certainly one of our main concerns from a dispatch point of view. But obviously from a pilot and FAA Rules and Regulations and a safety concern, it got way out of hand. And the bigger they grew, it did not get better.

Mr. BORSKI. Let me ask any of the panel, if you would. Where would you go with these problems? Is there a place that you can go? Can you go to the FAA with any confidence?

Mr. BEAMER. I believe now with the present attitude of the FAA, I think a pilot could probably feel fairly comfortable with going to a local FAA district office and expressing their problems because they have made a big, big push towards education of the pilots and education of the industry. Unfortunately, the pilots would probably find a larger problem with the company that they work for in that if they go to the FAA and say, hey, I have a problem with overweight landings or duty time or center of gravity problems, then when the FAA goes back to the operator, it's going to create a little bit of a problem for him. Again, it depends on the operator. Some

operators might perceive the problem as a benefit and then they can go on and do the operation correctly. Other operators, depending on their attitude, could perceive it as a threat to the operation and could reprimand the pilot.

Mr. BORSKI. Did any of you go to the FAA?

Mr. TELFER. I went to John Doster once and discussed with him in general the operation. His comment was basically that—this was toward the end of my tenure with the company—and his basic comment was that, it is really not the type of operation for someone who wants to get on with an aviation career and that I should probably be moving on. That's when I basically made the right choice to go and take my career elsewhere.

Mr. BORSKI. Anyone else care to comment?

Mr. BEAMER. I agree with Bill that the new attitude the FAA has is going to be very helpful in giving pilots a sense of confidence and trust and that they can report problems. The FAA I understand is breathing some new life into the accident prevention specialist program. Really, that's probably the person you'd talk to in a situation like this. But the local district offices should be providing proper audit of the company's procedures. If they are there doing their job right, it is pretty hard to cover up these things. One of the ways to do it is to talk to the pilots and see how the pilots feel about it on a one-to-one basis.

Mr. BORSKI. Let me ask one other question. What do you think of Mr. Holtz being back in business after 19 months? Do you have confidence that the FAA is really looking into this and treating everyone fairly?

Mr. TELFER. Well, based on the present attitude of the FAA now with regard to education and compliance in that frame of mind, I would be a little bit skeptical to allow an operator such as Mr. Holtz to go back into business and to pretty much operate on his own. I would have to think that the FAA would have to have some kind of stringent investigation and inspection policies with the company to ensure that there are actually no stones unturned as far as that they are doing the job correctly.

If operator happened to make a mistake and that they did not understand the regulations and so forth, then I could see that the company could come back into operation. But it would really have to depend on the individual circumstances and whether or not the company was blatant or whether it was a true mistake.

Mr. BORSKI. What about in this instance?

Mr. TELFER. In this instance, from my own personal experiences with the company, I would have to say that I would never operate on one of their aircraft. I would never fly as a passenger on one of their aircraft. I know the philosophy engraved in the pilots and in the company for over ten years and this philosophy was one of getting the job done in the quickest possible way and often the cheapest way. I find it hard to believe that this philosophy would change in a matter of eight months or ten months or a year-and-a-half.

Mr. BEAMER. In 1980 the company put a Lear Jet into the Gulf of Mexico. I understand that it has been admitted that both that airplane and the sister ship had a "go fast switch" illegally installed. I also understand that a year before that Duncan Aviation was requested to install a go fast switch and refused to do so and stated

that it was illegal. In that subsequent year, a go fast switch was still installed. It is my feeling, even after that airplane went into the Gulf of Mexico and two pilots got killed, that the same philosophy prevailed in the company—do the job, do it as quick as you can, as expeditiously as you can, and let's forget about duty times, crew rest, and maintenance, and let's get the job done. I think that attitude is still there. I got the feeling when I was there that the same attitude of ignoring maintenance problems and getting the job done prevailed and I can't imagine that it has changed. I think what we have done is given Earl Holtz a fantastic education in how to take care of the recordkeeping problems.

Mr. BORSKI. But how do you feel about the FAA putting him back in business? Where is your confidence that no matter what you do, no matter how forthright you are, you step forward, you tell your story, you point out grievous violations, and he is back in business in 19 months. I mean, do you feel confident that the FAA is doing a proper job?

Mr. BEAMER. I was surprised there were no formal hearing held to bring out the charges and convert them from allegations into facts and resolve the problem on a long-term basis. But as far as what the FAA does, I don't know what criteria they use to make their decision. That is not something I can answer.

Mr. TELFER. I was really surprised that after the revocation order that no questions were ever asked of me as to what happened at the company, what were my experiences with the company. I was the chief pilot for two years and had a substantial amount of time with the company, three-and-a-half years, and no one ever bothered to come to me and say, what is the actual true story here. I spoke with the FAA just before the initial investigation occurred. I spoke to them basically off the record and discussed with them the philosophy of the company and how everything was operating and how things were done. But after that time, no one ever contacted me regarding the actual investigation. Until today, I had never been able to address the statements made by Mr. Holtz. I find that a shame because I think that going back six months ago or maybe a year ago, if I had been able to come forward and state my opinions of this investigation maybe something might have been different.

Mr. BEAMER. I can look at that 6 March 1989 letter to the FAA and only question why all the pilots were not brought in to refute the allegations or the contentions that the company made to the FAA. I think we would find that a large majority of the pilots would confirm exactly the same thing that we are sitting here saying today.

Mr. BORSKI. But you were never asked by the FAA?

Mr. BEAMER. Some of us were interviewed. I was interviewed during the investigation and gave my statements. But there was no further interview to decide how long they were going to be out of business, etc.

Mr. TELFER. I think it was really hard for a lot of pilots to come forward during the investigation because of the fact that they did do things illegally and I don't think anybody was real proud of it. Pilots in general believe that the FARs are there to protect themselves and also, of course, the safety of the public and the FAA is

there to help them do their job and maintain the safety. I don't think that any pilot is really happy about going to the FAA and saying, I have been working for this company for three years and I have been blatantly violating the FARs regarding cargo nets. It just goes against your normal practices. I think if the FAA can allow pilots to feel free to come forward and say, I need some help with this company, I think there would be a big change.

Mr. BORSKI. Would you be less likely to go forward if you knew that the offending company was only going to get a year or nineteen months out of business and then be able to go back into business?

Mr. TELFER. Well, I think if I was actually working for the company and I was going to go forward to the FAA, I would hope that the company would not go out of business because I would want to continue to work for the company especially if things were changed for the better. If the problems were rectified, that would mean that the company would be on its way to a much better work place and work environment and morale would increase and everybody would be much happier.

Ms. WOODWARD. I'd like to say that I think the FAA's action of giving him back his license after these people have risked an awful lot by speaking up, has only encouraged this to go on more. I mean, they are rewarding people who have violated laws, and in a way they are punishing these people who come up to testify and they do nothing about it, and even their own people who have done investigations. They are encouraging pilots not to speak up. I think there has to be a system with the FAA and the pilots that are working for these companies where they are going to be protected and have the ability to be able to speak to the FAA without worrying about the company coming down on them. If it is not, and if the type of action that happened with this company continues where it is only caught at the very end, then you are going to see the same thing happening and it is going to be worse because pilots aren't going to speak up.

I think everyone was stunned—and that's the only reason I am here. I am here because Mr. Telfer spoke up, and he was a very strong part of our company, and he spoke up about this and the investigations that have gone on, and then they turn around and give the company back its license. I mean, it is a joke.

Mr. BEAMER. I think we all concur with that.

Mr. BORSKI. Thank you, Mr. Chairman.

Mr. ANDERSON. Before this panel is excused, the Chair wishes to thank these individuals for their testimony today. I would like to advise each of you that as the subcommittee continues its investigation into the Northeast Jet case, you may be called upon in the future to provide additional information. I hope that the committee can count on your cooperation throughout this process.

Finally, the Chair would also like to advise that should you be subject to any type of harassment as a result of your involvement, you are instructed to contact the subcommittee staff immediately so that appropriate action may be taken.

Again, I want to thank you for your testimony.

[Mr. Beamer's prepared statement appears on page 65.]

[Ms. Joan Szemplenski's prepared statement appears on page 161.]

[Mr. Telfer's prepared statement appears on page 164.]

[Ms. Woodward's prepared statement appears on page 169.]

Mr. ANDERSON. It has been pointed out to me that we do have a roll call to get over to; secondly, that we should recess for lunch. It is ten after twelve, so we will recess for about forty-five minutes, making us back here at about five minutes to one.

We stand in recess.

[Whereupon, at 12:10 p.m., the committee recessed, to reconvene at 1:55 p.m., the same day.]

AFTERNOON SESSION

Mr. BORSKI [assuming Chair]. The subcommittee will come to order.

Next, we will be hearing from FAA officials involved with the Northeast Jet case. Mr. Frederick J. Leonelli, Manager, Operations Branch, Flight Standards Division at Eastern Region; Ms. Loretta Alkalay, Assistant Chief Counsel, Eastern Region; and Mr. Richard A. Maddan, Manager, Allentown Flight Standards District Office.

Would you all please rise and raise your right hands.

Do you solemnly swear that the testimony you will give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

[Chorus of I dos.]

Mr. BORSKI. You may be seated.

Mr. Leonelli, you may begin.

TESTIMONY OF FREDERICK J. LEONELLI, MANAGER, OPERATIONS BRANCH, FLIGHT STANDARDS DIVISION, EASTERN REGION, FEDERAL AVIATION ADMINISTRATION [FAA]; LORETTA E. ALKALAY, ASSISTANT CHIEF COUNSEL, EASTERN REGION, FAA; AND RICHARD A. MADDAN, MANAGER, ALLENTOWN FLIGHT STANDARDS DISTRICT OFFICE, FAA

Mr. LEONELLI. Congressman Borski and members of the subcommittee, I am Frederick Leonelli, Manager of the Operations Branch, Flight Standards Division of the FAA's Eastern Region. I welcome this opportunity to briefly describe to you our investigation of Northeast Jet Company.

During early July 1988, we received information alleging that Federal Aviation Regulations were being violated by Northeast Jet. A list of the allegations is attached to my prepared statement as Appendix A.

Our initial investigation into these allegations began in early July 1988, and provided sufficient facts to warrant establishing a special inspection team. The special inspection team consisted of a team leader, two operations inspectors, two airworthiness inspectors, one avionics inspector, and an attorney assigned from our regional counsel's office. On August 4, 1988, an Order of Investigation was issued by the Eastern Region Assistant Chief Counsel to facilitate the issuance of subpoenas.

Our investigation disclosed that Northeast Jet was operating in a manner that posed a serious threat to the safety of air commerce. The investigation disclosed that the carrier was not in compliance with the Federal Aviation Regulations, with violations including

falsification of maintenance records, use of unairworthy aircraft, and operation of aircraft with unqualified airmen. A list of the Federal Aviation Regulations violated is also attached to my statement as Appendix B.

The majority of the allegations we received were substantiated by our investigation. We were unable to substantiate, however, the resident alien status of two management personnel and the allegation of an improper flight on April 10, 1988, of a Gulfstream GII aircraft.

The results of our investigation resulted in the revocation of Northeast Jet's operating certificate on September 30, 1988.

Congressman Borski, this completes my prepared statement. I would be pleased to respond to any questions that you may have.

Mr. BORSKI. Thank you.

Ms. Alkalay, if you would like to proceed, please.

Ms. ALKALAY. I am Loretta Alkalay, Assistant Chief Counsel for the FAA's Eastern Region. I welcome the opportunity to discuss with you the FAA's Emergency Order which revoked Northeast Jet's (NEJ) Part 135 operating certificate and the process we followed to certificate Northeast Jet following its one year certificate revocation.

As a result of an investigation of Northeast Jet by a special investigation team comprised of regional flight standards aviation safety inspectors and a member of my staff, the FAA on September 30, 1988, issued an Emergency Order revoking NEJ's Part 135 certificate, alleging numerous regulatory violations including intentional falsification of maintenance records, operating unairworthy aircraft, and operating with unqualified crew members. The carrier was owned and operated by Mr. Earl Holtz. The carrier appealed the FAA's Order and a hearing was scheduled before the National Transportation Safety Board. Because the Order was issued on an emergency basis, it was effective immediately and remained in effect notwithstanding the appeal.

On October 28, 1988, the FAA entered into an agreement with Mr. Holtz in which NEJ withdrew its appeal of the FAA's Order, allowing the emergency revocation to stand unchallenged, and the FAA agreed to meet with Mr. Holtz and listen in good faith to any proposals by Mr. Holtz to apply for certification for a company owned and/or operated by him.

Members of my staff and the regional Flight Standards staff met with Mr. Holtz and his counsel on at least three occasions and reviewed documents submitted by them. After carefully reviewing all the information submitted by Mr. Holtz, the Flight Standards Division Manager and I, after further inquiry by the FAA, determined that, consistent with past agency practice, keeping Mr. Holtz or any company organized by him from applying for an air carrier certificate until a minimum of one year from the date of the Emergency Order was a significant sanction and would serve as a significant deterrent to other air carriers.

In addition, the FAA required that certain specific measures be included in any future certification of Northeast Jet to help ensure that the types of violations committed in the past by NEJ would not be committed in the future. This decision was coordinated with appropriate Headquarters officials.

After a review of the information provided by Mr. Holtz and his counsel, the FAA decided that the arguments made supported the reasons for the revocation and did not in any way mitigate the FAA's action. It was determined that a strong sanction was necessary to serve both as a penalty to Mr. Holtz and a deterrent to other air carriers. After reviewing other cases from across the country in which the FAA had allowed companies who air carrier certificates had been revoked to apply for new certificates, it was determined that a one year sanction was appropriate to the facts and circumstances of this case.

In addition to the Emergency Order, we also issued Notices of Proposed Certificate Action and Notices of Proposed Civil Penalty to many of the airmen employed by NEJ for various regulatory violations.

That concludes my prepared statement. I would be pleased to answer any questions you might have.

Mr. BORSKI. Okay. Thank you.

Mr. Maddan, you may proceed.

Mr. MADDAN. Congressman Borski and members of the subcommittee, I am Richard A. Maddan, Manager of the FAA Flight Standards District Office in Allentown, Pennsylvania. I am pleased to appear before you today to outline the process by which Northeast Jet was certificated.

The certification of Northeast Jet was conducted in accordance with the procedures and policies contained in FAA Orders and Regulations. This included a five-phase process consisting of (1) preapplication; (2) formal application; (3) document compliance; (4) demonstration and inspection; and (5) certification.

The preapplication phase included initial contacts with the applicant and responding to the applicant's inquiries. The certification orientation video tape was reviewed and the applicant was provided a copy of FAA Form 8400–6, Pre-Application Statement of Intent or PASI. Once we received the completed statement of intent from the applicant, it was submitted to the Regional Office to obtain a pre-certification certificate number. The next step was to assign a four employee certification team, which was headed by the certificate program manager. A preapplication meeting was held with the company to set the tone of the actual certification process and to clarify any issues, including compliance with provisions of the Assistant Chief Counsel's June 28, 1989, Letter of Decision, specifically that any future application by Northeast Jet be reviewed to ensure that the following conditions were met:

1. Manual and Procedures must contain safeguards against improper logging of flight and duty times and against maintenance record discrepancies with emphasis on a cross-check that will preclude inadvertent maintenance record discrepancies or intentional falsification of such records.

2. Manual and Procedures must also emphasize the responsibility of individual management and support personnel members to comply with FAA regulations.

3. The application must contain Training Programs which ensure that the present training program-related violations do not reoccur. Besides mandatory recurrent training of all airmen, training programs must include recurrent training for management personnel

to ensure compliance with relevant FAA operations, maintenance, and recordkeeping requirements.

At this meeting the applicant received certification job aids, a schedule of events, and other documents we felt would be appropriate. The major purpose of the meeting was to ensure that the applicant understood the certification process.

The formal application phase began when we received a formal application letter from Northeast Jet President Richard Kaiser on or about March 21, 1990. Along with the letter, we received a schedule of events from the company, a company general manual, training manuals, an initial compliance statement, and other documentation necessary for certification. After a review of all elements, the next step was to have a formal meeting with the applicant to discuss any omissions or deficiencies noted.

During the document compliance phase, the applicant's manuals and other documents were reviewed and either accepted, approved or rejected, as appropriate. This phase included the in-depth review of such things as the operations manual, training manuals, weight and balance procedures, passenger briefing cards, minimum equipment list, proving test plans, and a final compliance statement.

In the demonstration and inspection phase, the applicant's facility was inspected and proving tests were conducted. Also during this phase, pilot flight checks were given. During this phase, everything was reviewed to see that the applicant met all the requirements for certification.

The certificate and operations specifications were issued during the certification phase. Finally, a ten-section certification report was completed and sent to the Regional office for approval.

Congressman Borski, that completes my prepared statement. I would be pleased to answer any questions you may have.

Mr. BORSKI. Okay. Thank you very much.

At the time of your inspection, Mr. Leonelli, was Northeast Jet and, in particular, Mr. Holtz willing to cooperate and assist the FAA in its investigation?

Mr. LEONELLI. Upon our arrival at the facility, they were more than willing to help us complete the inspection, yes.

Mr. BORSKI. Mr. Leonelli, you heard the testimony of the former employees here this morning. Would you say this testimony accurately reflected what you discovered during your in-depth investigation?

Mr. LEONELLI. Many of the items that were stated previously today we were unable to substantiate. However, the major causes for the revocation which surfaced during the inspection were, in fact, true—the violations of flight and duty time, the maintenance records.

Mr. BORSKI. As a chief inspector, Mr. Leonelli, how do you feel now that Earl Holtz and Northeast Jet are back in the aviation business?

Mr. LEONELLI. Well, the certification of the new Northeast Jet—they have undergone stringent certification which took over two and a half months. They have new management personnel within the company which are the pulse and the people that are required to keep the company on a straight and level keel safety-wise. I feel

confident that the certification that was done will provide us with a safe carrier.

Mr. BORSKI. Mr. Leonelli and Ms. Alkalay, in a conversation with subcommittee staff, it was stated that originally Flight Standards wanted to keep Earl Holtz out of aviation for ten years but that after discussion with FAA counsel that was lowered to five years. Why then did FAA enter into an agreement with Mr. Holtz which allowed him to reapply for a new certificate in a year?

Ms. ALKALAY. When we first entered into an agreement with Mr. Holtz we left open the amount of time that they would be kept out of aviation. In accordance with our agreement, they would present to us reasons why they should be allowed to ever go back into business. We had talked informally among ourselves in terms of other cases that we had been involved in. However, as part of the process that we went through, we reviewed what had been done across the country in other situations in an attempt to make our sanction in accordance with what was being done nationally. It was determined by our Flight Standards people, and I concurred in that, that a one year penalty was appropriate both to the violations that had been committed and what was being done by the Agency.

Mr. BORSKI. What do you feel about that, Mr. Leonelli, the original ten-year time period, then five, and then in less than a year? Did you at one point say in a meeting that you felt you were frustrated and you wasted your time in this investigation?

Mr. LEONELLI. Our members of the team at one point felt that a higher sanction would have been appropriate to the company. However, looking at the regulations and trying to keep a parity of what is going on throughout the FAA, keeping standardization, we felt that a one-year sanction was severe enough to act both as a penalty and as a deterrent for other carriers in the area that may have the same ideas.

Mr. BORSKI. Do you concur in that or do you feel that the penalty should have been stiffer?

Mr. LEONELLI. I feel the penalty, looking at it with all the evidence that we have, fit the situation at the moment.

Mr. BORSKI. Has your opinion changed from your earlier discussions with staff of the subcommittee?

Mr. LEONELLI. No, I feel that we had—in the past, we had different carriers that went out and we had people go out with five-year sanctions. It is a change in the overall policy of the Agency right now where we are doing more for compliance rather than enforcement. If you have proper compliance, you don't need to go after enforcement.

Mr. BORSKI. Ms. Alkalay, you have the reputation for being one of the toughest attorneys in the FAA. Given this, shouldn't we then be concerned that under the current system the toughest penalty inflicted upon someone who commits serious safety violations is a 19 month suspension? And do you believe that this is adequate in protecting the public's interest?

Ms. ALKALAY. I believe that issue is something that is under discussion right now in the Agency. I think a decision will probably be made in terms of what an appropriate penalty is in these types of situations. Right now we don't have the regulatory authority to

keep someone out forever. That makes it more difficult to have a standardized approach throughout the country.

Mr. BORSKI. How long have the discussions been going on?

Ms. ALKALAY. Well, how long have the discussions within the Agency been going on?

Mr. BORSKI. Yes.

Ms. ALKALAY. Probably since we began revoking companies as frequently as they have been in the last few years.

Mr. BORSKI. Ms. Alkalay, arising out of the Northeast Jet investigation, revocation action was proposed against the license of five pilots. Could you tell the subcommittee why such action was never taken?

Ms. ALKALAY. We haven't completed all the actions for which revocation was proposed. In those cases that we did not go for revocation, it was because the evidence did not substantiate the violations or sufficient numbers of violations or types of violations such that we could have revoked the certificates.

Mr. BORSKI. Mr. Leonelli, would you like to respond to that?

Mr. LEONELLI. As far as the revocation of the individuals?

Mr. BORSKI. Yes, sir.

Mr. LEONELLI. We are still processing those enforcement actions. As far as I know, they are still ongoing.

Mr. BORSKI. Mr. Maddan, when it came time to decide upon the recertification of Northeast Jet, how much consideration did you give to the owners previous history of non-compliance?

Mr. MADDAN. I gave a considerable amount of consideration to the history. That was in our minds all during the certification process. We knew that we had to cover certain things and there were some preconditions that we had to meet. So it was in our mind during that process; it would have had to be.

Mr. BORSKI. As the one responsible for issuing a new certificate, Mr. Maddan, do you believe you have the authority to deny a certificate based solely upon past violations?

Mr. MADDAN. I believe I have the authority to deny if there is a basis for denial.

Mr. BORSKI. Do you believe you have the authority to deny based solely upon past violations?

Mr. MADDAN. I am not sure if I could answer that, based on just past violations.

Mr. BORSKI. It would seem to me that if you are uncertain that you would not feel comfortable with that authority, would that be accurate?

Mr. MADDAN. I think if there is a basis for denial—I am not sure, not being a legal person, whether or not you can base it just on past violations. I would have to discuss that with somebody higher than myself.

Mr. BORSKI. So as far as you are concerned, no matter what happened in the past, that would not be a reason to hold up the recertification?

Mr. MADDAN. No, I don't believe that.

Mr. BORSKI. So you believe there could be some reasons?

Mr. MADDAN. Yes.

Mr. BORSKI. Mr. Maddan, since the company has been operating for little more than a month, what types of surveillance activities

have been carried out in regard to Northeast Jet and what have been the findings?

Mr. MADDAN. As you know, we went through a rigorous certification process here which was completed approximately five weeks ago. During that process, we accomplished approximately 25 separate and individual inspections, everything from soup to nuts, so to speak. We have some inspections planned beginning in July which are routine. In addition to that, we plan on doing just random inspections as well, to enhance the surveillance program.

Mr. BORSKI. I have more questions but at this point I will yield to Mr. McEwen.

Mr. MCEWEN. Thank you, Mr. Chairman.

Can you describe for me the circumstances whereby an applicant for a 135 permit would be denied?

Mr. MADDAN. Are you addressing that to me, sir?

Mr. MCEWEN. Anybody.

Ms. ALKALAY. Well, we can consider past revocations of either a company or its management or owners in determining whether or not a new certificate should be granted. The way the regulation is worded, it allows you to take that into consideration; it does not prohibit those companies from getting certificates. In order to legally keep them out, you would have to be able to articulate reasons for the length of time that they were being kept out of aviation.

Mr. MCEWEN. To your knowledge has anyone ever been denied a certificate?

Ms. ALKALAY. Based on prior violations?

Mr. MCEWEN. Well, I mean, it appears to me there are virtually no restrictions. I mean, if you falsify records and if you lie and if you cheat and if everybody investigates and they come up with recommendations against you, you still get one. So I am just curious what the circumstances would be whereby someone wouldn't get one.

Ms. ALKALAY. Okay. I can tell you the cases that I have been involved in where we have gotten a preliminary injunction against an owner of a company whose certificate we've revoked and we have not allowed that person to go back based on that preliminary injunction. There have been other instances where we have kept people out of aviation or management positions. It is just that you can't do it forever with the regulations that we have.

Mr. MCEWEN. It is our understanding that the original recommendation was a ten year penalty. What significantly changed in the course of things that it went from ten to whatever it was?

Ms. ALKALAY. Well, ten years was what we had done in a prior case, in a prior agreement that we had reached. It was ten years and then after five years the company could demonstrate to us why the period of time should be shortened. When——

Mr. MCEWEN. Was that fair and responsible—considering the information you had, was that a fair judgement, do you think?

Ms. ALKALAY. That was done based on how we felt within the Region. But when we went to our straightlining and an emphasis on standardization across the country, it was incumbent upon us to see that our sanction fit what was being done nationally to preclude companies from forum shopping, so that you wouldn't have

companies going to California or New York or somewhere to get a better deal.

Mr. MCEWEN. Who had the forum shopping concern? Where was that raised?

Ms. ALKALAY. Well, we all have a concern about the system being consistent throughout the country. That was certainly my concern and it was Flight Standards concern as well as our Headquarters concern.

Mr. MCEWEN. So the presumption is that we do have other carriers that are falsifying records and that are flying without proper regulations and that traditionally they only get a year; so, therefore, the Northeast needs to be in line with that level?

Ms. ALKALAY. No. Actually, what we found was that a year was appropriate for this type of violation. We didn't, at least to my knowledge, find companies that had a record similar to Northeast Jet that were being kept out a year. I didn't do an in-depth investigation of what the allegations in the other cases were, but to my knowledge there were none that were more than a year where there was a formal agreement by the FAA.

Mr. MCEWEN. Can you kind of fill me in on what would be more than a year; what kind of violations would merit more than a year?

Ms. ALKALAY. I think that, for example, in one of the cases that I dealt with after the company was revoked, they continued to operate notwithstanding the Order of Revocation. I think that's——

Mr. MCEWEN. So, if they put the FAA's authority at risk, then they get a longer penalty. If they just put the lives of the travelling public at risk, they get a year? I understand.

Ms. Alkalay, why did you negotiate a settlement? Under the regulations, I understand Mr. Holtz could have dropped his appeal and then reapplied the next day. Why would he accept a year delay and what did he get out of the deal?

Ms. ALKALAY. Well, what he got out of the deal was a time certain when we would not oppose his coming back in.

Mr. MCEWEN. What did we get in that deal?

Ms. ALKALAY. Well, we got a number of things. We got him kept out of aviation for that year time period. Actually, it was a year before he could even reapply, which is a significant sanction. I don't think many air carriers can withstand economically either an Emergency Revocation or being out of business for a minimum of one year, because a certification process can, of course, take six months, nine months, and longer. So I think it is a significant deterrent for any similarly situated company. I believe that the public interest was served by that kind of penalty.

Mr. MCEWEN. I still don't see what we got. He could have reapplied the next day, it would have taken a year, and you could have said, look at the background, so when Mr. Maddan comes in and says I don't have any idea what this background is all about, I don't know anything about it, certify him, so that when that happened then you could open up the file and say here is what we have had in the past. But we said, I'll tell you what, we won't do that, and he said, hey, I'll buy that.

Ms. ALKALAY. Right. Well, there are actually two things. One was that when he withdrew his appeal, the Emergency Order of Revocation remained with all the allegations on the record. We got

everything that we could have gotten by going to trial without the expense and the risk of litigation.

Mr. MCEWEN. But it doesn't do you any good, because you say I'll never use it. He says, fine, write it all down, I have violated everything. Now, we will seal it, put it away, and you can't use it against me. And throw in there child molestation or a few other things because it doesn't make any difference, you can never use it against me again.

Ms. ALKALAY. I disagree because we did use it. We used it to keep him out for that one year time period, whereas if we had to litigate that issue, there is a possibility that we would not have been able to sustain that one year.

Mr. MCEWEN. Because had you done it, then you would have had a sanction, you would have had a penalty. But what you said is alright, as long as we stipulate it in the court, you agree, then out of that we get no sanctions, that is during the time that we would have gone to trial is the time that you would have reapplied, whereby he can get assurances from the FAA that it will never use his past against him. And you agreed to that.

Ms. ALKALAY. Wait. Wait. Wait. You have to understand what the process was. He withdrew his appeal and we agreed to listen to him. We made absolutely no guarantees at that time. So what the Agency and the taxpayers got is exactly what we would have gotten by going to trial except we saved weeks of litigation and the risk that litigation always imposes. A lot of the evidence and a lot of the allegations are difficult to prove. Also, on top of the one year sanction, there were specific conditions that went beyond the regulations which we would not have been able to enforce but for our agreement.

Mr. MCEWEN. Do you feel that the stipulations to which you agreed will not reappear? Evidently so or the FAA would not have certified him again.

Ms. ALKALAY. Well, I believe that the punishment that Mr. Holtz faced will have a deterrent effect on his repetition. If it doesn't, I am sure we will take just as strong an action.

Mr. MCEWEN. Yes, that's what I am fearful of.

Mr. Maddan, under any circumstances would you recommend a person be removed from the aviation industry? Let me just tell you that from my analysis, I like "go getters," I like people to get things done, figure out ways to do it. In certain places I don't like that. I don't like it in brain surgeons; I don't like it in nuclear weapons personnel; I don't like it in air traffic controllers; I don't like it in maintenance supervisors of aviation. I like it in bulldozer operators; I like it in highway contractors; I like it in congressional staff; I like it in painters; I like it in people who mow lawns. I don't like it in people who do eye surgery; I don't like it in people who run airlines. There are certain people who are not temperamentally suited to running airlines. Do you agree with any of that? Is there ever a circumstance whereby a person would be removed from the aviation industry for life?

Mr. MADDAN. Yes. I believe that there should be circumstances. I am not familiar with any, certainly. But there has got to be certain persons that are just so flagrant that it just couldn't be tolerated and appropriate action would have to be taken.

Mr. MCEWEN. What specifically are you doing to make sure that what has previously happened and been agreed to by counsel does not happen to us—the people—again?

Mr. MADDAN. Okay. We went through a very rigorous certification process from A to Z that included all five phases here. We addressed the preconditions that were in the letter by Ms. Alkalay and Mr. Holtz' attorney. There is a system of checks and balances that we have addressed that we look at and keep track of. The operator has shown a willingness to comply throughout the certification process, he has new management personnel, and we will be doing some tough surveillances to ensure that they are safe and they are in full compliance with FARs.

Mr. MCEWEN. Mr. Maddan, would you be willing to describe for me your understanding as to the circumstances surrounding your appointment to your present position.

Mr. MADDAN. It was in 1989, I believe, in the fall that I was contacted and asked if I would spend a 120 day detail in the Allentown Office. At that time I was manager in the Charleston, West Virginia, office.

Mr. MCEWEN. Did you know what happened to your predecessor and why he was no longer there?

Mr. MADDAN. Basically. I didn't have a great knowledge at that time, but I understood that there were individuals that weren't there and there was need for a replacement.

Mr. MCEWEN. And what is your predecessor doing now?

Mr. MADDAN. I am not sure. He retired.

Mr. MCEWEN. Mr. Leonelli, your office is where now?

Mr. LEONELLI. I am at the Regional Headquarters at JFK Airport in New York.

Mr. MCEWEN. How long have you been in town?

Mr. LEONELLI. In New York?

Mr. MCEWEN. No, in Washington.

Mr. LEONELLI. Two days, sir.

Mr. MCEWEN. Do you mind sharing with us what you have been doing the last couple of days? Did you receive any assistance in your testimony here today?

Mr. LEONELLI. No, sir. We got some preparation of what would go on here and——

Mr. MCEWEN. Excuse me. Did you receive any preparation on your testimony here today? I didn't use the right term, I guess.

Mr. LEONELLI. We were prepared on how to act and the decorum of the hearing and everything else, but not in actual testimony, no, sir.

Mr. MCEWEN. If you were in my position, aware of the consternation you felt towards the handling of this situation prior to the time you appeared here today, and then you were to sit and enjoy your testimony you presented thus far today, would you see a difference between those two, between your testimony and concern that was expressed today, and the seeming understanding of the dilemma that FAA has in situations of this kind that you are presenting to us at this moment?

Mr. LEONELLI. I could see—speaking for myself, now—prior to the new policies and procedures and things going into effect since March 5th, where at one point we did have higher thoughts of

higher sanctions, myself and the team, being a little distressed at settling for a year for a company that we felt violated many regulations. However, the regulations don't allow for any specific time frame—it can be from one day or whatever is determined. Taking a general poll throughout the country, it seemed that what goes on in similar situations, that a one-year sanction is in consonance with everything.

Mr. MCEWEN. You made your recommendations based upon the severity of the offense and the deliberateness of the offense and the potential harm to people as you saw it as an FAA professional.

Mr. LEONELLI. Right.

Mr. MCEWEN. Now you and your good counsel there have suggested that should all be thrown out the window based upon this—whatever the terminology was, that there be similarity in sanctions across the country. Can you think of any person on earth that is concerned about the similarity of sanctions across the country other than the FAA? Is this of interest to the travelling public? Is this of interest to the Members of Congress that want the law enforced? Is it of interest to the people who report the violations? Who is served other than the FAA bureaucracy by saying all right, we have found the violation, he's agreed to it, and what we are going to do is we can't put a sanction of any consequence on it for fear that somebody in Los Angeles might think it too strong.

Mr. LEONELLI. I think the biggest people pushing that are the general aviation community, AOPA, ATA, everybody who initiated the study that went on to change the policy.

Ms. ALKALAY. May I respond to that?

Mr. MCEWEN. Sure.

Ms. ALKALAY. I think the public generally likes to believe that whether you violate the law in New York or California or Texas that there will be a similar penalty for the same type of violation.

Mr. MCEWEN. But you already were given a chance to answer that, Ms. Alkalay, when I asked you what were the circumstances whereby they would be greater than that. And you said you can't think of any circumstances that would be greater than that unless they violated the FAA rules once you revoked their certificate. The fact of the matter is that we think that when you deliberately falsify reports and you do it for an intentional basis for an ongoing period of time, that perhaps more than a year would be possible. Now everyone in the FAA recommended that and the only person that has disagreed with that is some bureaucrat in the FAA said, well, we need to have uniformity of sanctions. Evidently the uniformity of sanction is nothing greater than a year. Even to the point of revoking the certificate, the maximum penalty anyone could ever get is a year. Evidently that's the case because I have asked you if you have any other alternative, any other suggestion. We have had testimony of severe violations and the maximum we can come up with is a year and that is exactly what we wanted to find out from this hearing. That's why we held the hearing and that is what we have discovered.

Thank you, Mr. Chairman.

Mr. BORSKI. Mr. Leonelli, in your experience can you tell the committee how common it is for a regional inspection team to con-

duct the type of investigation which you conducted on Northeast Jet?

Mr. LEONELLI. Within the past three years that I have been at the Regional Headquarters, regional teams have conducted four such investigations. It is not uncommon. A lot of times it comes out of national Headquarters, we have national teams come down. Normally, it is left up to the local FSDO to do.

Mr. BORSKI. So it is not very common for a regional inspector team to have this kind of investigation?

Mr. LEONELLI. No, it is not a common type situation.

Mr. BORSKI. Of all of the inspections which you have conducted, how would you compare what you found at Northeast Jet with the others?

Mr. LEONELLI. Northeast Jet, based on my experience, was probably the most egregious violator of the regulations.

Mr. BORSKI. The most egregious?

Mr. LEONELLI. Yes, sir.

Mr. BORSKI. In your opinion, how would you characterize the way which Mr. Holtz managed Northeast Jet prior to its revocation?

Mr. LEONELLI. Based on the evidence and the interviews we've conducted, it was his management philosophy which primarily fostered an attitude to get the job done at all cost.

Mr. BORSKI. Mr. Leonelli, how would you characterize the performance of the local Flight Standards Office in Allentown during the years leading up to Northeast Jet's revocation?

Mr. LEONELLI. Not working in that area, I couldn't really—I could say they probably were understaffed and maybe not performing at the level they might have been had they had the proper personnel.

Mr. BORSKI. Could you please tell the committee what you found regarding the relationship between John Doster and Earl Holtz.

Mr. LEONELLI. Our inspection team didn't look into that. We just gathered information from the interviews of the pilots. There was another team that went out to actually look at the office after we completed our inspection.

Mr. BORSKI. But you didn't find anything regarding their relationship yourself?

Mr. LEONELLI. We didn't have any substantiating evidence. We had picked up the information from the different interviews.

Mr. BORSKI. Could you also briefly explain how you came to be aware of the problems with Northeast Jet and the performance of the local FAA.

Mr. LEONELLI. I was approached by my Divisional Manager in the early part of July and asked if I would head up a team to go out to Northeast Jet. We had received approximately ten allegations from Headquarters that were submitted to them. We were asked to convene a team and go out and find out if the allegations were true.

Mr. BORSKI. Are you concerned about the likelihood that Mr. Holtz will violate FARs in the future?

Mr. LEONELLI. I don't have the concern that he will violate them. I feel confident now that with the staffing out in Allentown, and new management out in Allentown, and the different areas we know to look at, and sometimes abnormal ways of getting the infor-

mation, I don't think that is going to be too easy for him to do what he did in the past.

Mr. BORSKI. Do you believe, sir, that we should treat revoked carriers differently than new carriers? Should we require that operators who have had their certificates revoked meet tougher standards for recertification, in your view?

Mr. LEONELLI. During certification, a carrier, whether he is new or an old one coming back in, is put under the most stringent requirements. I don't know what else we could do to them other than totally bar everybody that was affiliated with that company.

Mr. BORSKI. Mr. Leonelli, what measures can we take to guard against other local FAA offices running into the same kinds of problems which occurred in Allentown?

Mr. LEONELLI. As I have stated, I think the biggest problem we may have had out there was the lack of staffing and the inability to get out to do more surveillances. So proper staffing.

Mr. BORSKI. Mr. Leonelli, I want to ask this question again; I asked it a little earlier. You told committee staffers that it was your view that Mr. Holtz should be kept out of aviation for ten years. Is that still your view, and could you explain why the change, if there is a change.

Mr. LEONELLI. I don't remember telling them that I wanted him out for ten years. I remember discussing that we went from ten years to five years to one year with the sanctions. To be honest with you, I don't know if five years is going to make any more difference than one year. If the safeguards we have put into effect now don't sufficiently ensure the safety, I don't know if they would be in place five years from now.

Mr. BORSKI. Do you recall saying to the staff that you were very frustrated by this process and that you felt that your work was being ignored?

Mr. LEONELLI. We were frustrated, yes, I could say we were frustrated after the inspection, whereas being out there uncovering the evidence, we have felt that it should have been a higher sanction, but that really isn't our purview. We went out and got the evidence and if it didn't meet——

Mr. BORSKI. But personally you had some frustration.

Mr. LEONELLI. Oh, definitely, yes.

Mr. BORSKI. Ms. Alkalay, when, if ever, would you litigate? Are saying that the evidence, some of which we heard from the former employees today, was insufficient?

Ms. ALKALAY. Okay, the evidence against the company itself was overwhelming. The reason for not litigating in this particular case was that the Agency and the public got everything that it would have gotten if it had gone to trial. We got the revocation of Northeast Jet. The only condition was that we would listen to Mr. Holtz' presentation, that was all. I think we got exactly what we wanted for a fraction of the cost and the risk of going to trial.

I will always go to litigation if that's what makes sense. But I won't litigate when it doesn't make any sense.

Mr. BORSKI. By relying heavily on precedent in FAA regions around the country, have you not in effect adopted a national policy which limits the possible sanctions for carriers such as Northeast Jet?

Ms. ALKALAY. As I said, I believe that our sanction was stronger, given the circumstances of this case, than what had been done in other circumstances based on our review. I think that a different standard could be set so long as it is being set nationally.

Mr. BORSKI. Do you feel you would need legislation or other decisions by some one higher in FAA to make any changes?

Ms. ALKALAY. The changes cannot be done without either a regulatory change or a legislative change.

Mr. BORSKI. Are you not encouraging private counsel for revoked carriers to argue that it would be unfair to apply more severe sanctions even if they were warranted?

Ms. ALKALAY. I am sorry?

Mr. BORSKI. Well, let me ask it another way. Aren't the sanctions applied against Northeast Jet going to be raised by some other revoked carrier as precedent that it would be unfair to this other carrier if there were applied a stiffer penalty than which Northeast Jet was given?

Ms. ALKALAY. I suppose if they were not similarly situated, if they had perhaps a different record, then I suppose they could argue that, yes. But I would like to say that I have seen companies that are as bad as Northeast Jet was. I don't believe that Northeast Jet was all that different from other companies whose certificates I have revoked in the past.

Mr. BORSKI. When you say that Mr. Holtz was out of aviation a year, isn't it true that he still operated a maintenance shop and brokered flights?

Ms. ALKALAY. I believe that he had a company that held a repair station certificate. I don't know anything about his brokering flights.

Mr. BORSKI. If a carrier breaks the rules to make money, should we not take the money which he has made illegally away from him? We don't permit bankrobbers to keep stolen money; we don't let drug dealers keep their profits. What is the difference here? If Mr. Holtz made substantial monies from violating FARs, why should he be allowed to keep this money?

Ms. ALKALAY. We have traditionally felt that Emergency Revocation—and I believe that Emergency Revocation is the most drastic penalty that we can take, and in taking that penalty, I believe that we were using the most severe sanction that we had at our disposal. I believe that is more stringent than attempting to take money from him.

Mr. BORSKI. What is to stop someone from making all the money they can by breaking the laws, sitting out a year or two as a sanction, and then starting up again with illegal profits? Or maybe they don't start up again, but they just get to keep the money.

Ms. ALKALAY. I have found that with the carriers that I have dealt with that they are violating the regulations because they are not making sufficient profits to fly legally. I am not familiar with companies that have been making a lot of money and violating the regulations. I don't personally believe that there is a pot of money with most of these companies.

Mr. BORSKI. Do you happen to know what Northeast Jet's profits were?

Ms. ALKALAY. I don't know.

Mr. BORSKI. It appears as though it was sufficient to keep them going for a year and to buy a new carrier.

Mr. McEwen.

Mr. MCEWEN. Thank you.

Ms. ALKALAY. I am sorry. Could I just say that they are significantly different in terms of the number of aircraft. They had something like twelve aircraft and now they are down to one.

Mr. MCEWEN. Thank you. Ms. Alkalay, can you tell me who reversed the decision of the panel that lowered the sanctions to one year?

Ms. ALKALAY. No one reversed the decision. We never made a decision as to a sanction because our agreement was that we would listen in good faith to the proposal made by Mr. Holtz. It would not have been appropriate to reach a time period prior to his talking to us, otherwise there wouldn't be much good faith involved. When we talked it was just in terms of what had been done in a prior case. We never reversed our position. It was a Flights Standards recommendation based on their survey which we concurred in based on what we knew.

Mr. MCEWEN. Okay. Tell me, from your expertise, as to what you think about a system whereby all of this history can be established, investigations can be made, recommendations can be made, and then a new FSDO comes in and testified that he really didn't know much about the case, but can then go ahead and recertify the same people all over again and let them get back into business. Should we have that decision made in Washington, should we remove that authority from the regional offices? What kind of system do we have now?

Ms. ALKALAY. Okay. In this particular case, Mr. Maddan was really implementing a decision that was made and concurred in by Headquarters. The region made the decision, it was concurred in by Headquarters, and Mr. Maddan was implementing that decision which had additional safeguards built in above and beyond the normal certification requirements.

Mr. MCEWEN. So then Headquarters decided to recertificate Mr. Holtz?

Ms. ALKALAY. That decision was concurred in by our Headquarters office, yes. We made the decision, they concurred.

Mr. MCEWEN. Everybody is concurring, nobody is doing it. Of course, that's the ultimate decision-makers of the bureaucracy. But I am going to stay at it long enough to find somebody that said "Go."

Ms. ALKALAY. No, we made the decision. Okay, the way it works in order that we can ensure standardization across the country, because we believe that does lead to a fairer system of justice, prior to issuing our decision we coordinated it with our Headquarters Division and the Chief Counsel's Office. When they concurred in that, I issued the decision.

Mr. MCEWEN. I thought Mr. Maddan said he did.

Ms. ALKALAY. I issued the decision which set forth the agreement that Mr. Holtz would be allowed to apply and the conditions that would attach. Mr. Maddan was responsible for the certification of a company headed by Mr. Holtz that applied for a certificate consistent with the agreement that had been entered into by the FAA.

Mr. MCEWEN. Thank you very much.

Mr. BORSKI. This panel is dismissed. Thank you very much.

[Mr. Leonelli's prepared statement appears on page 152.]

[Ms. Alkalay's prepared statement appears on page 62.]

[Mr. Maddan's prepared statement appears on page 157.]

Mr. BORSKI. The committee will stand in recess for fifteen minutes for a vote.

[Recess.]

Mr. ANDERSON [resuming Chair]. I call the meeting to order.

Our final witness today is Mr. Earl Holtz, owner of Northeast Jet. Would you please stand and raise your right hand.

Do you solemnly swear that the testimony you will give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HOLTZ. I do.

Mr. ANDERSON. Thank you. Mr. Holtz, you may begin.

TESTIMONY OF EARL HOLTZ, OWNER, NORTHEAST JET, ACCOMPANIED BY SUSAN B. JOLLIE, ESQ., AND MARK S. KAHAN, ESQ., BOTH OF GALLAND, KHARASCH, MORSE & GARFINKLE

Mr. HOLTZ. Mr. Chairman and members of the subcommittee, thank you for inviting me to testify. I understand that the Subcommittee on Investigations and Oversight examines particular cases to learn about how Government agencies operate—in this hearing, you are focusing on the Federal Aviation Administration's enforcement and certification policies. You apparently chose to study Northeast Jet because of the shocking news stories published when the FAA issued an Emergency Order of Revocation.

Many of the allegations in the FAA Order were based on complaints of disgruntled employees and were completely or partially incorrect, and greatly exaggerated. The company never had the chance to respond to these charges before the FAA summarily revoked Northeast Jet's certificate.

I have accepted your invitation to testify so that you will know all of the facts developed in the course of the company's own intense investigation of the FAA's preliminary findings. My testimony is intended to provide explanations, not a legal defense. The certificate holder—Northeast Jet—did not elect to appeal these findings in a proceeding before the National Transportation Safety Board, which would have decided factual disputes and the validity of various legal defenses.

Following the revocation, I did much soul-searching and concluded that there were problems at Northeast Jet which warranted correction. The best course for me and the company was to look forward, not backward, and to work with the FAA constructively rather than exercise my legal rights of appeal. After careful examination, however, it became clear that the failures identified by the FAA could frequently be attributed to two causes: (1) the advice the company received from the FAA Flight Standards District Office, and (2) deficiencies in performance by those managerial employees with direct responsibility to ensure compliance with the Federal Aviation Regulations.

I accept the fact that the certificate holder is fully responsible for individual employees' violations of the Federal Aviation Regulations, and therefore must be constantly vigilant in overseeing daily operations. However, I want to explain to you how the FAA can correctly find that the owner of a company that has been cited for violations of the Federal Aviation Regulations is capable of operating safely after starting over with different personnel and more stringent voluntary compliance procedures.

In the case of Northeast Jet, the FAA entered an Order of Revocation based on an ex parte investigation. Because the Order was issued on an emergency basis, it took effect immediately. Under these procedures, the only due process is after the fact. Northeast Jet's decision not to appeal was a practical decision based on an assessment of the costs and benefits of pursuing costly and time consuming administrative litigation.

The FAA required us to wait at least one year before it would even process an application for a new certificate. The company that was certified as Private Jet Services is not the same organization as Northeast Jet. The process of rehabilitation was extremely rigorous. During this period, the company endured enormous losses. I was ultimately required to sell not only all of our airplanes, but also our hangar, maintenance facilities, and spare parts.

You may believe that this sanction is justified. But you should also know that the only charges made against Earl Holtz personally involved the failure of a check pilot to submit a written record to substantiate the fact that I had performed check rides for aircraft in which I was rated. Neither the company nor I derived any financial benefit, because the training actually had been completed. I have accepted overall responsibility for the operation of Northeast Jet and have paid a high price.

The FAA Order revoked the certificate of a company, not an individual. Those directly responsible for alleged safety violations were individuals with direct managerial responsibility for operations and maintenance, and individual pilots. In order to support its emergency certificate revocation proceeding, the FAA accepted—in my view uncritically—the claims of some individuals to the effect that Earl Holtz created an atmosphere or pressures at Northeast Jet that somehow "forced" individuals to violate Federal Aviation Regulations, or to engage in activities which they presumably knew would threaten their personal safety.

The FAA procedures unfortunately created an incentive for individuals whose primary responsibility to oversee compliance with FAA safety regulations to blame someone else—in this case, the company or its owner—in order to avoid FAA action against their individual certificates as airmen. I am disappointed that individuals whose chief responsibilities were to ensure safety were able to escape personal liability by claiming that they were motivated by some vague, unwritten company policy.

A company may be legally liable for employees' actions, or a failure to adequately supervise operations. But it is unfair to conclude that Earl Holtz, or any company in which I am involved, are likewise tainted by corporate failings.

The process of recertifying Northeast Jet to operate as a fundamentally new airline—Private Jet Services—was demanding. First,

there were a number of candid, informal conferences between the FAA and Northeast Jet's attorneys. The allegations that formed the basis for the Order of Revocation and the evidence developed in the course of Northeast Jet's own investigation were discussed. My written statement outlines the company's position on these issues. However, both parties focused on identifying the scope and causes of Northeast Jet's problems, rather than quibbling about whether or not specific violations could be proven. I believe that this exchange has helped to persuade the FAA that I did not personally violate any Federal Aviation Regulations or mastermind an intentional scheme to undermine FAA regulations, because I did not. If asked to offer recommendations for improvement in FAA enforcement policy, I would suggest that this process of constructive dialogue begin before, not after, an Emergency Order of Revocation is issued.

Second, Private Jet Services was required to demonstrate in the course of its certification that the causes of the company's nonconformity with FAA regulations were correctable. Since we had relied—rightly or wrongly—on local FSDO guidance, I was willing and able to accept the direction of the FAA.

The third important component of the recertification process was the company's efforts to voluntarily identify and implement audit and procedural safeguards which will assure that problems will not arise in the future. These procedures are designed so that the FAA, as well as the operator, will be able to identify trouble spots more quickly and easily.

It is my sincere hope that once this subcommittee understands the full story behind the revocation of Northeast Jet and the reincarnation of its successor, Private Jet Services, you will agree that the FAA was not too lenient. The issues in this case—and probably other cases which you could have chosen to investigate—are very complicated. The FAA should therefore retain its current discretion to process certificate applications under current regulatory policies.

Mr. Chairman, there is nothing illegal about putting the customer first, managing fuel wisely, and operating flights in the most efficient manner. What you heard this morning are complaints that relate more to a classic management-labor dispute. The Federal Aviation Regulations do not require pilots to receive scheduled vacation days, or bonus pay for being on the road, or that an airline pay commercial airfare to return a pilot to his home base, or prohibit training on ferry flights. What I learned this morning is that some employees do not like my management style. If you listened carefully, what I am about to say is no revelation. There was remarkably little, if any, relationship between their gripes and safety regulations and safety.

Let me just read you some phrases from Mr. Beamer's statement: "While I have no direct knowledge"—"I have no first-hand knowledge of this incident."—"Rumors"—"probably conducted"—"were rumored"—"supposedly illegal"—"it seemed to me"—"from conversations with other pilots"—"I had the impression"—"it seemed to be generally acknowledged"—"I was left with the distinct impression"—"in my opinion, it was useless"—"presented with a file"—by whom? And this goes on, and on, and on.

I think it is grossly unfair for employees with no specific knowledge of the facts to suggest that I fixed problems illegally. When alerted to a problem I might have consulted with the Director of Maintenance or the Director of Operations or Chief Pilot to find out about a situation. Aircraft could legally be released if, for example, aircraft were rerouted or crews deployed differently. Sometimes inspection or maintenance being performed before it was required could be postponed legally. The problems at Northeast Jet that were substantiated involved flight and duty time practices and maintenance recordkeeping practices that were approved by the FAA FSDO.

I am more than willing to answer your questions, although past experience has taught me I should not respond without first consulting the Federal Aviation Regulations, the FAA, and my attorneys. For that reason, they are also here to answer your questions.

Mr. BORSKI. Mr. Chairman, I have a point of order. Mr. Holtz is suggesting that he would like to have his attorney to answer questions. According to the rules of the committee, witnesses in investigation hearings may be accompanied by their own counsel for the purpose of advising them concerning their Constitutional rights. It is the purpose of the hearing to have Mr. Holtz answer the questions to the best of his recollection and not his attorneys, unless, again, they are advising him on his Constitutional rights.

Mr. ANDERSON. I believe the gentleman is correct in his statement.

Mr. Holtz, in May 1979, a Northeast Lear Jet was at Duncan Avionics for repair work and one item which the company requested was the installation of a switch which would disable the mach overspeed warning horn. Why did you seek to install such a switch?

Mr. HOLTZ. Sir, I did not seek to install such a switch. I would like to go into a little bit about the switch and explain it to you. There were switches. In late 1979 and early 1980, the FAA discovered numerous switches in certain model airplanes, Lear Jet 20 series aircraft. You have to take a look at some of the reasoning behind all of this, of what pilots were thinking. The airplane had a speed restriction between 305 knots and 350 knots between 10,000 and 14,000 feet. This was due to the manufacturer not bird proofing a windshield. It was the exact same windshield that was in other craft that were certified to 350 knots. So the pilots were being diverted in high density metropolitan areas off airways because they couldn't maintain their speed. If they were taken off the airways and put into a holding pattern because they couldn't maintain at low control, it could eat into their fuel requirements or their mission profile on that particular trip.

I think one thing that is very important here is you have to realize that a lot of pilots were pulling circuit breakers for the complete aural warning system. This particular switch just disengaged the aural warning for that particular system.

Mr. ANDERSON. Did you know the switch was to be installed?

Mr. HOLTZ. I was out of the company in October-November 1979 until the middle of April or late April 1980. For particular switch that you are talking about, the aircraft was purchased after I left the company, to the best of my recollection.

Mr. ANDERSON. So you didn't know then the switch was to be installed?

Mr. HOLTZ. No, sir.

Mr. ANDERSON. Does it trouble you that the eventual installation of an illegal switch on this aircraft was cited as a contributing factor to a May 19, 1980, accident in the Gulf of Mexico which killed two crew members?

Mr. HOLTZ. Well, looking into the problems of that particular system and perhaps the disengagement of that aural warning system, you have to recognize that there was another system also involved in any overspeed situation, and that is called the stick-puller. All indications, to the best of my recollection, were that aircraft encountered turbulence, clear air turbulence, a severe situation at high altitudes. You have got to take a look at the procedure that was used and the crew would use recognizing—Let's just take a couple of assumptions here. Let's assume the switch and the stick-puller are disengaged and the crew encountered clear air turbulence and you got into an overspeed situation. The flight manual at that time said to reduce the thrust levers, throw out the spoilers. Throwing out the spoilers creates a pitch nose down which aggravates the overspeed situation.

Now let's assume that the switch is engaged and the stick-puller is engaged. You use the exact same procedures—idle or retard the thrust levers, throw out the spoilers—but the aural warning and the stick-puller would go on at the same time. Now you have got a stick-puller that creates a 25 pound force pitch up, which the first action the pilot is going to do is to force the airplane down. You throw out the spoilers, the airplane is going to pitch down. Subsequent to this accident, there was a service bulletin in May of 1980 and I believe later in the fall, September 1980, an AD Directive changing the flight manual in regards to the spoiler operations.

Mr. ANDERSON. Mr. Holtz, in an interview with the subcommittee staff, you confirmed an incident in which you taxied an airplane with reverse nose wheel steering to demonstrate that it could be operated safely. This was done after the co-pilot had expressed concern over the aircraft's safety. What was the purpose behind this demonstration?

Mr. HOLTZ. Mr. Chairman, before we continue, I would like to introduce this service newsletter and this AD in regards to the previous testimony.

In regard to this question, at this time I didn't know that this was a violation of the FARs. I am a little confused and it is a little gray area here that I would like to discuss. I would like to introduce these copies to you, if I might, on——

Mr. ANDERSON. Well, what was the purpose of your demonstration?

Mr. HOLTZ. If you would give me a chance to explain this, I think we will walk through it. If there is any problems with that, you can ask me. But if you would like to take a look at this Flight Safety Training Manual. This is the Flight Safety Training Manual which is approved currently by the local FSDO. In here it outlines procedures in the event that the steering system is inoperative; "Differential power and braking can be used to taxi the airplane. Pulling the DC nose steering circuit breaker on the left main buss

will disengage the clutch, allowing the nose wheel to swivel freely." One additional point you have to recognize here, with any of the two of the right three anti-skid generator lights illumined, nose wheel steering should not be engaged at ground speeds above 10 knots. Then we go further to the current minimum equipment list and it says, "Anti-skid System," and it goes over various different ways to defer the anti-skid system. Basically, it is saying that the—and I am confused at this statement, and I didn't realize it was a violation—but the airplane does not have to use the nose wheel steering. It is not an airworthy item.

Mr. ANDERSON. But, again, the question is what was the purpose behind this demonstration? You taxied an airplane with reverse nose wheel steering to demonstrate that apparently it could be operated safely. Why? What was the purpose behind that? You must have had some reason.

Mr. HOLTZ. There was no particular reason other than to see how it was reacting and to discuss it with the captain and people at maintenance. As you can see, there is a procedure in there where you can disengage the steering. Years ago, these airplanes had considerable nose wheel steering problems. And you were to disengage the nose wheel steering and use asymetrical braking for taxiing.

Mr. BORSKI. Will the gentleman yield?

Mr. ANDERSON. Certainly, Mr. Borski.

Mr. BORSKI. Mr. Chairman, according to the pilot, he felt very strongly that Mr. Holtz' whole purpose of doing this was intimidation. Mr. Holtz, would you care to comment to that?

Mr. HOLTZ. I don't understand that. The pilot never said anything to me and both crew members were involved. I don't see how it was intimidating. If he felt uncomfortable with flying the flight, why did he take the flight?

Mr. BORSKI. Well, perhaps they were afraid that they would no longer have a job. The co-pilot's point was that he thought you were trying to show how chicken they were and that there was nothing wrong with the flight.

Mr. HOLTZ. I don't think that's the case.

Mr. BORSKI. Thank you, Mr. Chairman.

Mr. ANDERSON. Mr. Holtz, in a March 6, 1989, letter from your attorney to the FAA, it was stated that compliance with regulations suffered because you were forced to spend more and more time on the financial side of the company. How is this statement consistent with the incident regarding the reverse nose wheel steering, where you were obviously involved in the company's operations?

Mr. HOLTZ. On a few occasions I would be involved with some things on the operational side, if they asked my opinion. I consulted with the Director of Maintenance and the Director of Operations. Let's say prior to September of 1988, the prior two years, maybe even longer, I spent considerable time with financing a hangar project and expansion of the hangar, and acquisition of new equipment, and I relied solely on the Director of Operations and Chief Pilot—which is outlined in the operations manuals as their duties and responsibilities—to take care of day to day operations of the company. I relied on them heavily.

Mr. ANDERSON. Mr. Holtz, what percentage of Northeast Jet clients paid for their services in cash?

Mr. HOLTZ. I have absolutely no idea. I can't recall any specific percentage.

Mr. ANDERSON. Was it a lot?

Mr. HOLTZ. There were some cash customers, but I don't think it was—I couldn't even come up with a percentage.

Mr. ANDERSON. On page 6 of your statement, you state that you wanted to start over with individuals who were "committed to strict compliance with the Federal Air Regulations." Yet, two of the pilots in your new company worked for the old Northeast Jet, one in the management position of Chief Pilot. Both of these individuals currently face individual enforcement action from the FAA for violating regulations in the old company. How do you explain this apparent inconsistency?

Mr. HOLTZ. Well, you are talking about Randy Kroschwitz who is one individual who prior to revocation—approximately one year prior to revocation—Randy Kroschwitz was involved with buying and selling of aircraft and leasing aircraft. He has agreed to come on as a captain for the company. I look to him to—he understands fully the FAA sanctions against the company, how serious they can be and what it can do to a company. I think he will be one to understand and set the new spirit of the company, for any new employee, that compliance is the standard of this company.

Mr. ANDERSON. Mr. Holtz, also in your statement you mention that you checked with Paul Kaye regarding whether or not the system being developed for reporting maintenance discrepancies was in compliance with Federal Air Regulations. What was his response to your inquiry?

Mr. HOLTZ. I am not sure I understand. A conversation that I had with Mr. Paul Kaye?

Mr. ANDERSON. Yes. In your statement, you mention that you checked with Paul Kaye regarding whether or not the system being developed for recording maintenance discrepancies was in compliance with Federal Air Regulations. My question is what was his response to your inquiry?

Mr. HOLTZ. My response to my inquiry was I asked Paul Kaye—I am trying to reconstruct. Let me just get my thoughts together here. One time I was passing through the maintenance area and Paul Kaye was making changes to the maintenance discrepancies. My only comment to Paul Kaye was to do whatever is required by the FAA. I think whatever maintenance procedure that we had in effect, the local FSDO knew about this and approved it.

Mr. ANDERSON. Well, my question though was what was his response?

Mr. HOLTZ. I don't recall.

Mr. ANDERSON. You don't remember. Mr. Holtz, you are a man who has been successful in the aviation industry. Obviously, you possess a great deal of knowledge about Part 135 operations. Are you telling this subcommittee that you believe the policy in which maintenance discrepancies were not recorded in an aircraft's logbook was legal?

Mr. HOLTZ. Sir, the procedure that was developed at Northeast Jet was approved by the local FSDO. We were a worldwide on-

demand charter company. Airplanes would sometimes leave homebase for anywhere from one day to three or four weeks at a time. The pilots called in all their squawks to the company. The company kept a set of books of every item that was on that airplane. The biggest problem the company had with this situation is that we did not defer, as per MEL procedures. Everything that was listed in the Order of Revocation was a deferrable MEL item. We never tried to hide anything from the FAA—here is the book, we showed it to them. I think it is very important that you understand that the company did not skimp on maintenance. You don't fly the level and class of people that we flew unless you have a reliable airline. I think reliability is the key to it. If you are not maintaining airplanes, they will let you down somewhere along the line, they will break down. Our airplanes did not break down. We contracted for outside maintenance. We had a 24-hour maintenance staff. We had spare parts, a considerable amount of spare parts. It was the envy of the industry.

Mr. ANDERSON. How did your company know that the FAA was going to conduct an inspection of Northeast Jet prior to the arrival of the inspection team?

Mr. HOLTZ. I'm sorry. I didn't hear the first part of that.

Mr. ANDERSON. How did your company know that the FAA was going to conduct an inspection of Northeast Jet prior to the arrival of the inspection team?

Mr. HOLTZ. To the best of my recollection, in July of 1988, Mr. Leonelli and Mr. Doster came in with an initial inspection informally. We sat down in my office and they brought up certain questions and we responded. At that time, I requested that Mr. Leonelli and Mr. Doster invite the Region to come in and inspect our facilities and that if there were any problems, then we would correct them immediately. Then I guess later on in late July or early August, we found out that there was going to be an inspection.

Mr. ANDERSON. Mr. Holtz, since you have heard the testimony this morning of former employees, is it possible that Northeast Jet did throw a birthday party in honor of John Doster?

Mr. HOLTZ. No, sir. We threw birthday parties for employees. It could be Mr. Doster passed by on one of those birthday parties. I want to make it perfectly clear when it comes to——

Mr. ANDERSON. Did he ever have the time and attend?

Mr. HOLTZ. I don't understand the question.

Mr. ANDERSON. I thought you said it may have been a party for somebody else and he stopped by.

Mr. HOLTZ. As I say, we gave birthday parties for our employees and maybe he passed by. Other than that, I don't know. There was no birthday party arranged for Mr. Doster that I can recall.

Mr. ANDERSON. Did you ever offer John Doster a job as President of Northeast Jet?

Mr. HOLTZ. No, sir. My relationship——

Mr. ANDERSON. You did not?

Mr. HOLTZ. No, sir. My relationship with Mr. Doster was a professional relationship and it was a respectful relationship. Nothing more than that.

Mr. ANDERSON. What was the reason behind your suggestion to Kurt Walters that he take a 30-day vacation to decide whether he wanted to be a team player or find another job?

Mr. HOLTZ. I can't recall talking to Kurt Walters in that conversation. I can remember Kurt Walters stating that he wanted to take some vacation time and some time off.

Mr. ANDERSON. Mr. Holtz, in your statement you mention that cargo nets were available for cargo flights. Is it your testimony that for every cargo operation which occurred at Northeast Jet there was a net available and the planes were equipped with the proper hardware for the installation of the nets?

Mr. HOLTZ. I know that I gave instructions to Billy Telfer in response to a letter to get cargo nets for the aircraft. I understood that we purchased cargo nets—I think there was somewhere invoices or receipts for cargo nets. They were available to the crews.

Mr. ANDERSON. Was there hardware installed in the plane?

Mr. HOLTZ. To the best of my knowledge there was.

Mr. ANDERSON. There was?

Mr. HOLTZ. There was.

Mr. ANDERSON. In the March 6 letter to the FAA from your attorney, it is stated that Northeast Jet was a very profitable company. Yet, we have been told that many of your suppliers, such as Butler, had placed the company on a cash only basis due to slow payments. Could you reconcile these two statements?

Mr. HOLTZ. I think any prudent management—how you manage your cash position—and I don't recall us being on a cash basis with Butler; on occasion we might be. But in this particular business, our terms for payment were net 10 days. It seemed to be that the larger corporations or individuals wanted to pay 30 to 45 days and you can see where some of our payables could go out to the 60-day period. But I think if you were to contact our vendors that we used considerably for maintenance and so forth, you would see that the bills were paid and they extended a lot of credit to us.

Mr. ANDERSON. In an interview with the subcommittee staff, you stated that the company never launched a crew with the intent to violate flight and duty regulations. Is that your testimony today?

Mr. HOLTZ. That's correct, sir.

Mr. ANDERSON. That is correct?

Mr. HOLTZ. Most of our mission profiles were always planned within the guidelines. There are occasions, on medical trips—that you could be on a long-range medical trip bringing some patient back to the United States for medical treatment and you'd have adverse weather delays, technical delays at your tech stops because of fuel being delayed and so forth. You could end up exceeding crew duty time somewhat, maybe two or three hours. And I am not going to see a flight stop and a patient die because of the flight duty times because it's beyond your control.

There might be another situation where you take a transplant team to, say, Boston to Dallas which is a three or three and a half-hour flight, and they might be removing a kidney or a heart and coming back to Boston. It might take anywhere from three to six hours. And then another three-hour flight. So you might in those instances exceed the flight and duty time. But it was never planned.

Mr. ANDERSON. Mr. Holtz, we've heard testimony today that if a trip was scheduled which would violate flight and duty regulations, only those pilots willing to break the regulations would be asked to take the trip. According to the Emergency Revocation Order, Robert Tameris is cited for the most violations. In fact, he has two times as many violations as any other individual.

Doesn't this confirm the fact that Tameris was frequently called upon to undertake operations which were in violation of flight and duty regulations?

Mr. HOLTZ. Bob Tameris was from what I understand a pretty decent pilot, and the customers requested him and there was a lot of letters of request for Bob Tameris. I think that some of the things that occurred about Tameris, he was an overzealous pilot.

Mr. ANDERSON. Was he called upon when there were violations?

Mr. HOLTZ. I lost my train of thought there. Let me collect myself and see if I can get it back together again. I think in regard to Bob Tameris that some of the rumors are allegations of Bob Tameris being overpaid. He liked to fly a lot. He just liked to fly a lot. I don't know exactly how many hours that he flew in a year's time, but if it was around 700 hours, he was on the high side from a company standpoint. And, yet, I didn't feel that was utilizing the pilot to an industry standard of about 900 hours. All our pilots were flying anywhere from 250 to 400 hours per year.

Mr. ANDERSON. Was he called upon frequently when there were violations?

Mr. HOLTZ. I can't answer that, I can't answer that. I did not dispatch Mr. Tameris. To the best of my recollection, I just can't remember.

Mr. ANDERSON. My last question, Mr. Holtz. Isn't it a fact that when Northeast Jet aircraft were in the Los Angeles area, planes would fly to Ontario to tanker up with cheaper fuel and then return either to LAX or Palm Springs overweight to pick up passengers?

Mr. HOLTZ. We used Ontario, California as a fuel depot place, and there are instances that I am aware of with a Jetstar aircraft that would tanker fuel out of Ontario to Palm Springs. I think the reason for this is that during the training of the Jetstar crews, the training instructor that we used, there is a procedure in the training manual or the maintenance manual—I don't know which—that said if you set up a rate of dissent of 300 feet or less, you can land the aircraft overweight. I mentioned Ontario to Palm Springs, I'm aware of that. But I don't know of the ongoing numerous times of overweight landings. Somewhere along the line you're going to have it show up in blown tires, cracked wheels—in the Jetstar particularly, tank and plank inspections that are done every five years, and I think they do riser inspections on those things every six months or every 300 hours. And there was never one instance where I saw anything with the aircraft that there were any of these maintenance problems.

Mr. ANDERSON. Mr. McEwen.

Mr. MCEWEN. Thank you, Mr. Chairman. We discussed at length, Mr. Holtz, the negotiated agreement that you entered into, and the attorney for the FAA said they got everything that they wanted plus more without having to go through the risk of a trial, et

cetera, et cetera. It sounded to me like she pretty well took you to the cleaners. Is that the case?

Mr. HOLTZ. It's one of the most devastating things that I've ever experienced.

Mr. MCEWEN. You didn't get anything out of it? You just rolled over and said——

Mr. HOLTZ. Well, I learned a lesson. If there is anything I would do differently it is that I would go to the FAA and work with the FAA. I think there has to be some system, as you mentioned earlier. We were inspected 88 times in 12 months prior to our revocation with no violations. Now, I relied on the local FSDO to give me guidance, and somewhere along the line we have to have some system that if there are violations that occur, that the operator can find out about them. In our current company, Private Jet Services, we take considerable effort in trying to put up safeguards and police ourselves. Then you'll have to take a look at yourself.

Mr. MCEWEN. Would you think that Northeast Jet operates any differently from any other Part 135 Certificate holders?

Mr. HOLTZ. Are we talking about today or yesterday?

Mr. MCEWEN. Both.

Mr. HOLTZ. Both?

Mr. MCEWEN. You're out there competing in a tough business. Are you doing anything any different than they are?

Mr. HOLTZ. Well, today we are in total compliance with the FARs without question; we have all the safeguards in effect. I can't answer to the other operators. I only hear rumors of what other people do, and it's rumors. It's a very, very competitive business. There's always "this is a bad operator" or "that's a bad operator;" "these people do this and that." It's hearsay. I think we have to take a look at the regulatory side and the regulations in certain areas so American companies can be more competitive in the on-demand business in a global sense with regard to flight and duty times. Let's just take as an example of the flight and duty times.

Mr. MCEWEN. Do you know what politicians do for a living? We're professionals. We deal in obfuscation and misrepresentation with everybody all day for a living. We have more so than anybody else, we deal with people because we can never—we don't sell a product and we never make a sale. We have to rely on whether or not we think somebody's telling us something. Now, when you're selling a house and you got three realtors, sometime or another you're going to sit down and you're going to say I'm going to go with this guy, and you sign a contract.

But with members of Congress or politicians, people look you in the eye and say I'm for you and I agree and I think I'm with you and I can help you. And you have to be very good because—you don't have to be very good, you cannot help but become very good at being able to sense when people are telling you what they really think and what they don't think.

I can't believe a person of your talent and your ability and your experience cannot answer a question as to whether or not you think some Part 135 certificate holders in America are operating within or outside the limits. If you don't want to answer it, you don't have to. But just don't think that I don't understand what you're doing.

Mr. HOLTZ. I'm trying to explain that——

Mr. MCEWEN. We don't need to talk about international flight schedules and things. Just do you think most people operate within the limits or not? It's a tough competitive business. You know what they're doing; you know what they're paying for fuel; you know how often they're flying; you know the qualifications of their pilots; and you know whether or not they're skirting the rest times.

Mr. HOLTZ. I think a large majority of the companies are trying to work within the guidelines.

Mr. MCEWEN. You really had them over a barrel when you were operating outside the guidelines because they couldn't catch you.

Mr. HOLTZ. No, sir. I think you have to take a look at the customers who flew our airplanes and had the full plate of the charter operators out there. They are a VIP who travels around like this. And he would have not traveled with Northeast Jet unless he felt comfortable with the equipment and the crews and the reliability.

I think the problem exists today in the small operators who might so to speak bend the rules. As you get larger, I think you'll see the exposure is a little bit different situation. And these people work for compliance. It's my opinion that they do. I took my guidance from the local FSDO. When it came to flight and duty time, I think I submitted a statement from our local POI. We took a broad interpretation of it. That was our guidance.

Mr. MCEWEN. Thank you.

Mr. BORSKI. Mr. Holtz, you were here for this morning's testimony from several of your former employees. I wanted to read a little bit from the statements because I think I heard you say that you were not directly involved in the day-to-day management of the company; is that correct, sir?

Mr. HOLTZ. Yes, sir. Prior to two years, I believe I said, prior to revocation I was involved in expansion plans of the hangar facility and acquisition of aircraft.

Mr. BORSKI. I'm going to read a little bit from this morning's testimony. Mr. Beamer said: "It was my personal experience that Earl Holtz was intimately involved in all aspects of the operation. It seemed to be generally acknowledged that he alone had the authority to make decisions."

Mr. Telfer said: "Mr. Holtz was a hands-on businessman owner that gave little or no latitude to his middle management regarding operating expenses that required financial involvement."

Joan Szemplenski says: "Mr. Holtz did not allow Mr. Kaye to do his job properly. Mr. Holtz ultimately had the final say in the daily operations of the company. If a problem occurred during a night while I was on call, Ms. Buttenheim would tell me she had to talk to Mr. Holtz and would call me back and Ms. Woodward. So she or I would contact Mr. Holtz or Mr. Kaye. If the answer we got from Mr. Kaye was not helping to get the plane out, Mr. Holtz was called."

Mr. HOLTZ. I didn't catch that last one, sir.

Mr. BORSKI. I'm quoting from Ms. Woodward's testimony. "So she or I would contact Mr. Holtz or Mr. Kaye. If the answer we got from Mr. Kaye was not helping to get the plane out, Mr. Holtz was called."

Would you care to comment on that testimony, sir?

Mr. HOLTZ. Basically, on a lot of the testimony, I think you have to take a look at the employee. Mr. Beamer was fired in 1988 and is still not permanently employed. He was constantly incapable of planning efficient, legal flights. Consistently he would fly between, say, JFK and Allentown—which is a 20-minute flight—and log 45 minutes to an hour for that flight. The Missouri flight is another example of Mr. Beamer not planning a flight properly.

Mr. Telfer is a very interesting situation. Mr. Telfer signed an agreement with the company, accepted an upgrade into a Gulfstream aircraft and then proceeded to leave the company within three months after that commitment which was an 18-month commitment. And we are in litigation with Mr. Telfer. He owes the company $15,000.

When it comes to Ms. Szemplenski, Meta Buttenheim advised me that Joan was fired because she engaged in some coercion of her own. She demanded a $1,000 bonus when Meta was on vacation and threatened to quit, leaving the company very short-handed if she didn't get it.

And Ms. Woodward's statements speak for itself: She did not like Meta Buttenheim.

Mr. BORSKI. Mr. Holtz, is it your testimony that your former employees lied under oath this morning?

Mr. HOLTZ. They offered their opinions.

Mr. BORSKI. I'd like to go back to the question about your relationship with Mr. Doster and again some of the testimony from this morning.

Mr. HOLTZ. You'll have to slow up; you're speaking too fast.

Mr. BORSKI. I want to go back to the earlier testimony about Mr. Doster and your relationship with him and again refer to some of the testimony given earlier this morning.

Ms. Woodward says: "From the time I started working there until the time I left, I was aware of the very cozy relationship Mr. Holtz and Ms. Buttenheim had with Mr. Doster as evidenced by the lunches they took, drinks after work at our office, drinks and cake for him at our office on his birthday."

And from Ms. Szemplenski's testimony: "Mr. Doster and Mr. Holtz had a very close relationship. When Mr. Doster retired, he was to become Northeast Jet's president. An office was prepared for him. Mr. Doster stopped by Northeast Jet between 4:30 and 5:00 p.m. often. These visits seemed to be of a personal nature rather than any type of inspection."

Would you care to comment on that testimony, sir?

Mr. HOLTZ. Mr. Chairman, these are vicious, vicious rumors about a professional employee that was just a strictly professional relationship, and I respected him as an airman.

Mr. BORSKI. And you would say that there is no truth to those statements whatsoever?

Mr. HOLTZ. That's correct. I can state that Mr. Doster was not offered a job at Northeast Jet by Earl Holtz. He was—I think he's 70 plus years old. I mean, I don't know what he could do with me.

Mr. BORSKI. Did you socialize with Mr. Doster? Did you have drinks with him at work?

Mr. HOLTZ. No, sir; I did not.

Mr. BORSKI. Did you or did you not know of the company's plans to install an illegal switch in May of 1979?

Mr. HOLTZ. No, I did not.

Mr. BORSKI. Mr. Holtz, how often would the Krasner brothers, also known as the Kelly brothers, use the services of Northeast Jet?

Mr. HOLTZ. I have no idea how much they used the airplanes.

Mr. BORSKI. Did they use your company?

Mr. HOLTZ. The Krasner brothers used the company, yes.

Mr. BORSKI. Did you know what their occupation was?

Mr. HOLTZ. They are involved in a magazine.

Mr. BORSKI. What kind of magazine, sir?

Mr. HOLTZ. I don't really know.

Mr. BORSKI. Was it pornography?

Mr. HOLTZ. I don't really know what it is or what it's called.

Mr. BORSKI. Would they always pay for their services in cash?

Mr. HOLTZ. They would pay in cash; that's correct.

Mr. BORSKI. Was every cash payment properly recorded both in terms of company income for tax purposes and aircraft use for maintenance purposes?

Mr. HOLTZ. Yes, sir.

Mr. BORSKI. Every cash payment was recorded and every maintenance program?

Mr. HOLTZ. To the best of my recollection. And everything is on the books. There were invoices created for any cash payment that was received in the company. And I never handled any of the cash.

Mr. BORSKI. Mr. Holtz, was there ever any occasion where a Form 8410–3 was signed off in regard to your airman's certificate for a check ride without the check ride ever being accomplished?

Mr. HOLTZ. I don't know what you're talking about.

Mr. BORSKI. Do you recall any occasion when your company approved a check-off ride without the check-off ride being given?

Mr. HOLTZ. The only recollection I have is, in December of 1987, I went to flight safety training with our check airman and completed the training down at flight safety, and I was never signed off for a check ride on that. I think that was the check airman's fault for not signing me off. I did complete the training. I do have the certificate of training from flight safety. And that's the only instance I can recall.

Mr. BORSKI. Mr. Holtz, at any time did you personally intercede or have any knowledge of efforts to dispatch an aircraft to cross the Atlantic Ocean with an inoperative high frequency radio?

Mr. HOLTZ. Not that I'm aware of.

Mr. BORSKI. Mr. Holtz, why didn't your company obtain reservations at high density airports as prescribed by Federal Air Regulations?

Mr. HOLTZ. The company—I want to. On the ARO situation, the company used a system that was used by many others in the industry—charter operators in the industry that I've ever worked with. We filed our flight plans. And if the flight plans were accepted, we were then accepted into the ARO arrival system. That's the way we understood the regulations, and no one ever confronted us with any other—that we were not using the ARO system properly.

Mr. BORSKI. Mr. Holtz, did you ever instruct employees to sign off on a check ride form without a check ride being accomplished?

Mr. HOLTZ. No, sir. One thing that is very disconcerning to me about some of the things that I looked at after revocation—and did a lot of soul searching—is that the people who I relied on to run the company on a day-to-day basis were signing off check rides and I did not know about it. And if I had known about it, I would have fired them.

Mr. BORSKI. Did you hire the people who had the authority to sign off?

Mr. HOLTZ. I hired Paul Kaye who was alleged to have signed off check rides that were not completed; yes, I did. And I did not know he was doing it and he never had marching orders from me to do it. I think it's an injustice here that the company has the problems and individual airmen should be, and management people should be, responsible for their own actions.

Mr. BORSKI. You do agree that management people should be responsible?

Mr. HOLTZ. Absolutely.

Mr. BORSKI. And should owners also be responsible?

Mr. HOLTZ. Yes, sir. I take full responsibility.

Mr. BORSKI. Were Northeast Jet funds ever used to pay for renovations of Meta Buttenheim's house?

Mr. HOLTZ. I'm sorry. Would you repeat that?

Mr. BORSKI. Were Northeast Jet funds ever used to pay for the renovations of Meta Buttenheim's house?

Mr. HOLTZ. Not that I was ever aware of.

Mr. BORSKI. Not that you were aware of.

Mr. McEwen, any further questions?

Mr. MCEWEN. No further questions. Thank you much for your testimony, Mr. Holtz.

[Mr. Holtz' prepared statement appears on p. 70.]

Mr. BORSKI. The committee is adjourned.

[Whereupon, at 3:38 p.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

37-595 0 - 91 - 3

PREPARED STATEMENTS OF WITNESSES

STATEMENT OF LORETTA E. ALKALAY, ASSISTANT CHIEF COUNSEL, EASTERN REGION, FEDERAL AVIATION ADMINISTRATION, BEFORE THE HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, SUBCOMMITTEE ON INVESTIGATION AND OVERSIGHT, CONCERNING FAA CERTIFICATION POLICIES. JUNE 19, 1990.

Mr. Chairman and Members of the Subcommittee:

I am Loretta Alkalay, Assistant Chief Counsel for the FAA's Eastern Region. I welcome the opportunity to discuss with you the FAA's Emergency Order which revoked Northeast Jet's (NEJ) Part 135 operating certificate and the process we followed to certificate NEJ following its one year certificate revocation.

As a result of an investigation of NEJ by a special investigation team comprised of regional Flights Standards aviation safety inspectors and a member of my staff, the FAA on September 30, 1988, issued an Emergency Order revoking NEJ's Part 135 certificate, alleging numerous regulatory violations including intentional falsification of maintenance records, operating unairworthy aircraft and operating with unqualified crew members. The carrier was owned and operated by Mr. Earl Holtz. The carrier appealed the FAA's Order and a hearing was scheduled before the National Transportation Safety Board (NTSB). Because the Order was issued on an emergency basis, it was effective immediately and remained in effect notwithstanding the appeal.

On October 28, 1988, the FAA entered into an agreement with Mr. Holtz in which NEJ withdrew its appeal of the FAA's Order

(allowing the emergency revocation to stand unchallenged) and the FAA agreed to meet with Mr. Holtz and listen in good faith to any proposals by Mr. Holtz to apply for certification for a company owned and/or operated by him.

Members of my staff and the regional Flight Standards staff met with Mr. Holtz and his counsel on at least three occasions and reviewed documents submitted by them. After carefully reviewing all the information submitted by Mr. Holtz, the Flight Standards Division Manager and I, after further inquiry by the FAA, determined that, consistent with past agency practice, keeping Mr. Holtz or any company organized by him from applying for an air carrier certificate until a minimum of one year from the date of the Emergency Order was a significant sanction and would serve as a significant deterrent to other air carriers.

In addition, the FAA required that certain specific measures be included in any future certification of Northeast Jet to help ensure that the types of violations committed in the past by NEJ would not be committed in the future. This decision was coordinated with appropriate Headquarters officials.

After a review of the information provided by Mr. Holtz and his counsel, the FAA decided that the arguments made supported the reasons for the revocation and did not in any way mitigate the FAA's action. It was determined that a strong sanction was

necessary to serve both as a penalty to Mr. Holtz and a deterrent to other air carriers. After reviewing other cases from across the country in which the FAA had allowed companies whose air carrier certificates had been revoked to apply for new certificates, it was determined that a one year sanction was appropriate to the facts and circumstances of this case.

In addition to the Emergency Order, we also issued Notices of Proposed Certificate Action and Notices of Proposed Civil Penalty to many of the airmen employed by NEJ for various regulatory violations.

That concludes my prepared statement, Mr. Chairman. I would be pleased to answer any questions you may have.

Statement of G. Thomas Beaner
to
Members of the Subcommittee on Investigations and Oversight

12 June, 1990

In responding to your letter of 17 May, 1990 I must begin by stressing that I am only expressing my opinions, however I believe a review of the information gathered by the FAA during the July/Aug/Sept 1988 investigation will serve to confirm my comments.

I was employed by Northeast Jet from March 1985 until July 1988. My initial assignment was as a co-pilot on Learjets flying on demand domestic and international charters, I was then promoted to Captain which position I held when I left NEJ.

Your letter expresses an interest in learning more about the relationship between NEJ and the local FAA. While I have no direct knowledge I can only question how the head of the local FAA office could be quoted in the local newspaper saying that Northeast's safety record was excellent and the company was considered a competent and efficient organization, furthermore confirming that 88 inspections had been conducted since Oct. 87 without finding any violations, while at the same time FAA Eastern Region is conducting an investigation that resulted in the Emergency Revocation of the Operating Certificate.

In your letter you have specifically requested that I review a letter dated 3/6/89 from NEJ's counsel to the FAA Eastern Region, the following comments all pertain to that letter.

Page 2, Overview
2nd paragraph, It is claimed that no passengers were on board during an engine out flight from Helsinki to London. I have no first hand knowledge of this incident however rumors that surfaced after the investigation indicate that the flight was probably conducted without the required Special Flight Permit, and that a Flight Attendant was onboard, I understand that NEJ's Flight Attendants had no formal training and were therefore really only passengers themselves. Furthermore I have heard of other instances where supposedly illegal engine-out Jetstar flights were rumored to have occurred.

3rd paragraph, The company claims that the compliance problems were not symptomatic of widespread intentional or fraudulent conduct sanctioned by NEJ. It seemed to me that deliberately cutting corners was company SOP, a matter of expediency. Furthermore in looking at the record I can only wonder why the company had an unblemished record of compliance. It is my opinion that the problems uncovered by the FAA had far deeper roots then rapid growth, as has been alleged by the company. From conversations with other pilots who had been employed by NEJ prior to me I have the impression that serious compliance problems had always existed.

4th paragraph, It is claimed that Earl Holtz was not involved in the day-to-day operational decisions. It was my personal experience that Earl Holtz was intimately involved in all aspects of the operation. It seemed to be generally acknowledged that he alone had the authority to make decisions. Earl Holtz was frequently in the dispatch room, it was not the least unusual to be personally briefed and dispatched for a trip by Earl Holtz. And I have been personally berated, coerced, and threatened by Earl Holtz because I refused to land at an airport with an unacceptable runway (too short, inadequate weight limitation), because I refused a trip that required excessive duty time or allowed inadequate crew rest.

Page 3
It is alleged that Paul Kaye was the fundamental cause of many, if not most, of the problems which led to the emergency revocation. In my dealings with Paul Kaye I was left with the distinct impression that while he preferred to operate in a more acceptable manner he was prevented from doing so by Earl Holtz.

Page 4-6, Training
It is alleged that NEJ was dedicated to professional training. It was my personal experience that from hiring in March 85 to Oct/Nov 85 I received no training whatsoever except 30 minutes of flight time which in my opinion was useless in preparing me for co-pilot duties. I never received any training in emergency evacuation, fire extinguishing, or hazardous materials during my tenure at NEJ. In addition I was informed after my initial flight that I had done well on my tests, which I assumed meant someone had falsified answer sheets. After the inspection was announced I was presented with a file of my training records and asked to sign for training that I had never received to satisfy the inspectors, I declined to do so.

It is my understanding that a NEJ employee suggested to Roger Mayer that he misrepresent his experience to meet company requirements, Mr. Mayer has informed me that he was released for duties with less then one hour of training and that the additional six hours, shown as training, were a company "dead head" flight that just happened to take place prior to his flying a revenue trip.

Page 6, Tameris
Paragraph One, even without the extra fuel onboard the trip into Hilton Head required 4500' and there was only 4000' available. I was originally briefed for this trip, after I refused it both Meta Buttenheim and Earl Holtz attempted to coerce me into taking it. Furthermore this was the second instance in which I had refused a trip into Hilton Head due to runway requirements and been coerced by management, Earl Holtz.

Paragraph Two, I personally reported the Tameris problem to the Director of Operations (Paul Kaye) and the Chief Pilot (Julian Bussat) in June/July 1987, a few days later the Director of Operations called to ask me for names of co-pilots who he could talk with for confirmation, after investigating it further he reported to me that Earl Holtz said that he would personally deal with Tameris because it was a delicate matter. On 23-24 Dec 1987 Tameris was dispatched on three consecutive trips from ABE for a total continuous duty time in considerable excess of 24 hours, I find it difficult to understand how management can claim this was the result of an "over-eager or over-loyal" pilot taking things into his own hands. I believe that review of the monthly flight times, and pilot pay records, will tend to show that Tameris was rewarded for his zealousness, this would seem to be a means of condoning his actions.

Page 7
I would tend to believe the events occurred substantially as Mr. Gebert related them, contrary to assertions I found Mr. Gebert to be above average in experience and maturity, in addition to a substantial background as a pilot he is an experienced Aircraft & Powerplant Mechanic.

From conversations I have had with other pilots I understand that most of the Trans Atlantic Lear flights were unable to climb to their assigned Flight Level for the first few hours, as a result they made false altitude reports to Air Traffic Control. Due to false altitude reports and an absence of surveillance radar the potential for a midair collision was increased.

4th paragraph, It is alleged that Mr. Gebert, a licensed mechanic, was incapable of correctly reading an oxygen pressure gauge, mention is also made of the availability of medical oxygen as a backup to the aircraft system. It is ridiculous to even discuss the use of portable medical oxygen in the event of a rapid depressurization

Page 8, Flight & Duty Time
It is alleged that there was no rampant abuse of flight and duty times, that pilots were able to decline flights without threat of discipline, and that pilots were not coerced into violating duty times. In my personal experience nothing was further from the truth, I have been coerced, threatened, and disciplined by Earl Holtz on a number of occasions because I refused to accept flights that exceeded duty times, or did not allow adequate crew rest periods. Furthermore in conversations with other pilots there were frequent bragging references to excessive duty days and inadequate crew rest periods, Duty days of 24 hours and crew rest periods of 6 hours seemed to occur with considerable regularity.

Page 9-11, Weight and Balance
The last paragraph begins a description of a flight I made in N158NE to Warrensburg MO, the explanation is most ingenious but does not square with the facts. The co-pilot and I were briefed to fly from Allentown to Columbia MO, purchase fuel there because Warrensburg did not have jet fuel available, then reposition to Warrensburg to pick up our passengers and make a non-stop return to Allentown. Neither the dispatcher, nor the airport directory I consulted at home made any mention of a runway weight limitation at Warrensburg, however enroute to our scheduled fuel stop at Columbia MO I found that the airport chart for Warrensburg indicated that there was a 12,500 lb. maximum weight limitation in existence at Warrensburg. I immediately called dispatch on the flight phone and was instructed by Meta Buttenheim to proceed to Columbia and call when I arrived. I did so at which point Earl Holtz got on the phone and demanded that I fuel at Columbia, as briefed, and land overweight at Warrensburg, when I refused to do so he became agitated and then suggested that I fuel with gasoline at Warrensburg. During this conversation he asserted that the 15,000 foot altitude limitation when operating a Lear with gasoline had been eliminated, I have never heard of this change and to the best of my knowledge it has not occurred. Subsequently I landed at Warrensburg, departed with the passengers, landed and fueled at Columbia, and returned to Allentown. Assuming a 10,313 basic weight and 4,500 lbs. of fuel I would have been required to land at Warrensburg weighing 14,813, and with four passengers I would have departed at 15,613, this is in considerable excess of the 12,500 lb. runway limitation.

Page 11
5. Cargo Nets, During the first year or so of my employment at NEJ we did not have any cargo nets, subsequently one net was purchased, and then a second one. On one flight, when I was still a co-pilot and no nets were available, the pilot used maximum breaking and reverse thrust and the cargo slid forward into the cockpit. As a result we had automobile water pumps in cardboard boxes lying on the pedestal where they almost contacted the throttles. It was not unusual to be dispatched for a freight trip while on the road and be unable to install a cargo net, nor was it unusual to have multiple aircraft going on cargo runs and the company having either no nets, or too few nets for the number of trips dispatched. In my experience the pilots all wanted, and used when available, cargo nets. The pilots were quite concerned about the safety, and legal aspects of flying without them.

Page 11-13, Maintenance
It has been my experience that aircraft frequently flew for considerable periods of time with multiple maintenance discrepancies, the policy seemed to be to keep it in the air as long as a pilot could be coaxed into flying it. There have been times where dispatch told me I had been taken off a scheduled trip because it was expected that I would refuse to fly the aircraft due to uncorrected discrepancies.

The unwritten procedure for recording discrepancies required that we not make entries in the logbooks carried in the aircraft, all entries were in a book kept by the Director of Maintenance.

Sincerely,

G. Thomas Beamer

STATEMENT OF EARL M. HOLTZ
CHAIRMAN OF THE BOARD, PRIVATE JET SERVICES

Mr. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

My name is Earl Holtz. I am currently Chairman of Private Jet Services and formerly President of Northeast Jet. Accompanying me are my attorneys, Mark S. Kahan and Susan B. Jollie of the law firm of Galland, Kharasch, Morse & Garfinkle, P.C. They will be able to answer your questions about legal procedures and their discussions with the Federal Aviation Administration (FAA).

The Subcommittee on Investigations and Oversight has chosen to examine the Federal Aviation Administration's enforcement policy using as an example a proceeding in which the Part 135 certificate of Northeast Jet, Inc., a company which I owned, was revoked. At the time an Emergency Order of Revocation was issued, there were several news stories that repeated unsubstantiated allegations, many of which were completely or partially incorrect, and greatly exaggerated. The company never had a chance to know of or rebut these charges before the FAA issued the Emergency Order of Revocation.

Following the revocation, I did much soul searching and concluded that there were problems at Northeast Jet which warranted correction, and that the best course for me and the company was to look forward, not backward, and to work with the FAA constructively rather than exercise my legal rights of appeal. After careful examination, however, it became clear that the failures identified by the FAA could frequently be attributed to the advice the company received from the FAA Flight Standards District Office (FSDO) and

deficiencies in performance by those managerial employees with direct responsibility to insure compliance with the Federal Aviation Regulations (FARs). The notion that Northeast Jet had a particularly egregious compliance disposition, or that I skimped on safety to enrich myself, is not and never was true. Our company operated modern, up-to-date, and well maintained aircraft. Our facilities and stock of spare parts were the envy of our competitors. I am convinced that our emphasis upon, and expenditures relating to, training were at or near the top of our industry segment.

I understand that the investigative approach of this Subcommittee is to study a particular case to derive from it more general lessons. This statement is designed to provide explanations, not a legal defense. I now understand that the certificate holder can and will be held to be ultimately and fully responsible for individual employees' violations of the FARs, and therefore must be constantly vigilant in overseeing daily operations. I have accepted your invitation to testify in order to dispel the implication that the owner of company that has been cited for violations of the FARs is necessarily incapable of operating safely after starting over with different personnel and more stringent voluntary compliance procedures.

This statement will also provide detailed discussions of various allegations in press reports and stories of disgruntled employees. I strongly believe that after you have examined all of the facts, not just the distortions and half-truths that have been

publicly disseminated to date, you will not be critical of the FAA's decision to permit me to form a new on-demand corporate jet service.

EXPLANATION OF FAA PROCEDURES APPLIED TO NORTHEAST JET

To better understand the significance of the FAA Order of Revocation, it is useful to review the various procedural options available to the FAA when it discovers infractions of the Federal Aviation Regulations (FARs). In the years immediately preceding the revocation of Northeast Jet's Part 135 certificate, the FAA levied civil penalty assessments of $4.5 million against American Airlines and $9 million against Eastern Airlines for alleged infractions of FARs. The FAA nonetheless took the position that these carriers were safe, despite the widespread deficiencies identified by the FAA. The carriers were afforded an opportunity to demonstrate to the FAA at an informal conference that many penalty assessments were incorrect or excusable errors. The parties worked out a monetary settlement and corrective programs were adopted for problem areas that had been uncovered during the special inspection.

In the case of Northeast Jet, the FAA entered an Order of Revocation based on an ex parte investigation, rather than issuing a penalty notice. Because the Order was issued on an "emergency" basis, it took effect immediately. In contrast to the treatment accorded the large scheduled airlines, the process of informally disputing the factual bases of specific allegations of misconduct

and negotiating corrective measures occurred only after the FAA issued the Order.

The FAA has the discretion to proceed by using either procedural device i.e., by civil penalty or through "certificate action." At the time in question, the air carrier had a right to contest the FAA's determination before an impartial tribunal, the National Transportation Safety Board (NTSB) or the courts. The NTSB has often not agreed with the FAA's positions. However, an air carrier that appeals an emergency order of revocation or suspension is constrained from entering into a frank, cooperative dialogue with the FAA to find areas of agreement on how personnel and procedures might be altered to respond constructively to FAA concerns.

Perhaps in initiating this investigation, the Subcommittee was led to believe that the situation that prevailed at Northeast Jet was somehow an egregious example of fraudulent record keeping and unsafe operations. This misunderstanding could arise from the "findings" of the FAA contained in its order of revocation. Northeast Jet was provided no opportunity to offer evidence before these "findings" were entered. Under the emergency revocation procedures, due process is afforded after the fact. In short, the FAA Order (if appealed) is nothing more than a complaint; it is not the product of adjudicatory proceedings designed to ascertain the truth or to consider the validity of available legal defenses.

Northeast Jet elected not to appeal FAA allegations that violations occurred. From this, it simply does not follow that the

FAA revocation findings are correct, or that anyone involved in a company whose certificate has been revoked is forever unfit to operate a safe airline. To the contrary, review of the facts in this case would have established that there is no documentary evidence or credible testimony that Earl Holtz personally directed specific violations of the FARs.

Northeast Jet's decision not to contest the FAA emergency revocation cannot be regarded as an admission of Earl Holtz' personal guilt. Rather, it was a practical decision based on an assessment of the costs and benefits that could be derived from contesting FAA "findings" in an administrative hearing. I decided to focus my energies on forming a new company that would be completely compliant with the letter as well as the spirit of the Federal Aviation Regulations, as interpreted by the region and headquarters offices. Northeast Jet could have relied for a legal defense on the informal direction received from the local FSDO, and may well have persuaded the NTSB to cancel or modify the Order of Revocation. However, the better approach was to start over by applying to re-certificate Northeast Jet as a fundamentally new company, Private Jet Services.

This decision was extremely costly, as it turned out. The FAA required us to wait at least one year before it would even process an application for a new certificate. The process of rehabilitation was extremely rigorous. During this period, the company endured enormous losses of every description and came face to face with total collapse. I was ultimately required to sell not only

all of our airplanes, but also our hangar, maintenance facilities, and spare parts, just to survive. When we began business last month we were economically but a shadow of our former self.

In contrast to other charter corporate jet operators, Private Jet Services now has in place voluntary audit procedures and other programs which are designed to insure full compliance with all FARs. Before this new carrier was certified, the FAA had to be assured that those individuals who had been primarily responsible for introduction of non-compliant bookkeeping practices were no longer with the company. Indeed, let me assure you that, after the Order of Revocation when I discovered the enormity of the problems that certain managerial employees had created at Northeast Jet, I had no desire to retain their services and came to see the wisdom of starting over with individuals who were committed to strict compliance with the FARs. As a result of the demanding certification process which Private Jet Services underwent, to say nothing of the hard lessons I learned, it will be a model operation.

THE FAA POLICY ON CERTIFICATION OF REVOKED COMPANIES IS CORRECT

The first question posed by the Subcommittee concerns the FAA's effectiveness in dealing with corporate violators of FAA regulations. It is easy to theorize that a corporate violator of FAA regulations should be punished severely. As noted above, my revocation experience certainly met that standard. However, the Subcommittee should critically examine the fairness of disciplining

a corporate violator for two different reasons. First, is the cited violator really the same entity as that which the FAA investigated? Second, is the cited violator the only violator, or is the violation one which occurs on an industry-wide basis and for which there may therefore be reasons that lead numerous aviation professionals to elect to [illegible] a particular course of action, especially in the face of confusing or ambiguous provisions contained in Federal Aviation Regulations?

In this subject investigation, the certificate of a company was revoked. Our legal system has always recognized that corporations enjoy a separate legal identity from individuals. Companies can be guilty of offenses because of activities undertaken by those individuals in positions of responsibility. It does not follow that every individual employed by, or serving as an officer or director of, a company that has been involved in allegedly improper activity is therefore equally liable for corporate wrongdoing. Moreover, it should be readily apparent that no individual should be judged to be guilty for activities against which a corporation may choose not to defend.

In this particular case, the only charges made against Earl Holtz personally involved the failure of a check pilot to submit a written record to substantiate the fact that I had performed check rides for aircraft in which I was rated. Neither the company nor I derived any financial benefit from this unexplainable dereliction of duty by the check pilot. I have also accepted overall respon-

sibility for the operation, and for that I have paid a very substantial price.

Those directly responsible for alleged safety violations were individuals with direct managerial responsibility for operations and maintenance, and individual pilots. In order to support its emergency certificate revocation proceeding, the FAA accepted, in my view uncritically, the claims of some individuals to the effect that Earl Holtz created an atmosphere or pressures at Northeast Jet that somehow "forced" individuals to violate FARs, or engage in activities which they presumably knew would threaten their personal safety. While the company may be legally liable for employees' actions, or a failure to adequately supervise operations, principles of fundamental fairness do not support the inference that Earl Holtz, or any company that he should subsequently desire to form, are equally culpable.

The FAA's post-revocation approach in this case seems appropriate and hard to fault. Before reaching the decision to certify Private Jet Services, the FAA reviewed specific facts, the qualifications of the company's personnel, and proposals to insure compliance. Because of the revocation, Earl Holtz was required to prove both that his new company could operate safely and that the punishment fit the offense. FAA hardly accepted our statements uncritically. Some have suggested that the mere entry of an ex parte emergency order of revocation by an administrative agency should be regarded as conclusive evidence that an individual or corporate entity involved in the certificate revocation process

cannot operate safely. But the determination has to be on a case-by-case basis. No legitimate regulatory purpose would be served if a person who has already been sanctioned severely is not only presumed guilty, but barred from future activity no matter what the individual circumstances.

Potential Abusive Grants of Individual Immunity

This Subcommittee should be wary of relying on FAA procedures which create an incentive for individuals whose primary responsibility is to oversee compliance with FAA safety regulations to blame someone else -- in this case, the company or its owner -- in order to avoid FAA action against their individual certificates as airmen. It is obviously in these individuals' economic interest to deny individual responsibility for violations of the FARs while blaming a "higher authority." The FAA would undoubtedly maintain that emergency revocation action was in order given the gravity of the charges. However, had the FAA provided an opportunity to discuss the factual issues or allegations before revocation, Northeast Jet would have fired those individuals responsible for the deficiencies and the company believes it would have been able to satisfy the FAA that Earl Holtz was personally not involved in any allegedly fraudulent activities and was capable of being part of a safe company.

The only evidence against Earl Holtz personally was hearsay, the kind of evidence that is deemed so unreliable that it is not ordinarily accepted in a court of law. There was, and to this date

is, no documentary or other credible evidence that I directed individuals employed by Northeast Jet to violate FARs, or that I instigated fraudulent record keeping practices. The FAA apparently relied on statements of individuals employed by Northeast Jet that their actions and those of others were "what Earl Holtz wanted." Individuals should not be permitted to avoid personal liability for their indisputable non-compliance with FARs by alleging that some unarticulated, unwritten "company policy" is motivating their actions. This is powerful inducement for individual wrongdoers to formulate a common defensive strategy.

While some might believe that consistency in oral testimony enhances credibility, consistency in claiming company coercion can also be explained by mutual self interest: it pays to "cooperate" with investigators and blame the company. The NTSB and court procedures afford defendants an opportunity to cross-examine witnesses to probe the credibility of their testimony. The decision not to challenge allegations using these procedures is not an admission that allegations are true.

Personal accountability must be a fundamental component in any realistically enforceable and fair regulatory regime. If individuals know that their own behavior cannot be excused by "the devil made me do it" defense, there will be less incentive to distort the facts when dealing with government investigators.

Settlement of Disputes Advances FAA Regulatory Objectives

In the course of subsequent discussions reviewing past events and present intentions, the FAA was persuaded that Earl Holtz was capable of being involved in a safe on-demand corporate jet service. If an individual were to be permanently barred from engaging in any aviation-related activity on the basis of an FAA order of suspension or revocation, individuals and corporations would be forced to contest vigorously FAA findings before the NTSB and courts. A basically non-productive situation would arise in which the resources of both private and government entities are devoted to resolving unnecessary factual disputes. It is more in keeping with the regulatory objectives of the FAA to encourage voluntary compliance.

Northeast Jet could have offered a defense to many charges in the Order of Revocation demonstrating that the company relied on the interpretation of the FARs rendered by the FAA's local representatives. In the final analysis, however, Northeast Jet would not have "won," even if it could have established that it properly relied on the guidance of the local FSDO, or even that the local FSDO's interpretations of the FARs were reasonable. As long as higher authorities within the FAA are in disagreement with the policies enunciated by their local representatives, a company that defends these views -- as it must to retain the certificate -- will be regarded as exhibiting a bad compliance disposition. In this environment, the prudent course of action is to cooperate fully

with Federal regulatory authorities to establish the type of operation which fully comports with the expectations of the FAA.

ARE DRACONIAN ENFORCEMENT POLICIES FAIR?

The second policy question that the Subcommittee must ask itself is whether it is fair to impose a bar on those individuals whose companies have been revoked by the FAA for alleged safety violations of the FARs -- those who have been "caught" by the FAA. Northeast Jet had been inspected 88 times during the twelve months prior to the revocation and was found to be without violations. The FAA inspector that reviewed the FSDO in March 1988, submitted a glowing report, which is attached to this testimony. (Attachment 1.) This situation may well have continued until this day if a disgruntled employee who had been fired by the company had not begun a campaign against the company, which I personally believe to be unfair and, in major part, unsubstantiated.

Questionable Deterrent Effect

While the concept of banning those cited for major safety violations from the airline business may seem to provide an incentive for compliance, this reasoning assumes even-handed enforcement efforts are being made. If the FAA finds out about violations from disgruntled former employees, rather than its own inspections, as was the case with Northeast Jet, then operators can minimize or avoid exposure to the risk of certificate revocation by continuing to employ those whose performance is unacceptable. If

FAA enforcement is predicated largely on information generated from informants, then that system is bound to be unfair or to encourage airline employers to keep employees happy at whatever costs in terms of productivity. This Subcommittee should also ask whether a system which relies on providing immunity to individual wrongdoers in order to revoke a company's certificate creates an incentive for employees who are threatened with FAA action against their certificates to fabricate or exaggerate the wrongdoing of an employer solely for the purpose of obtaining individual immunity from FAA prosecution.

Is this Subcommittee confident that Northeast Jet was the only on-demand corporate jet operator to have engaged in practices that may have violated FAA regulations? If local FSDO officials were correct in their assessment that Northeast Jet was an above-average company, then there are many more egregious violators who have been lucky enough not to have been "caught." The newly certificated Private Jet Services is very interested in this issue, as it must operate in a competitive environment. What assurance can the FAA provide that Private Jet Services competitors are not engaging in practices for which Northeast Jet was revoked? Private Jet Services is a strong advocate of greatly enhanced FAA investigations, not to put its competitors out of business, but to insure that all companies are competing under the same regulatory rules.

Changing Enforcement Philosophies

I also ask this Subcommittee to consider the question of whether Northeast Jet would have received so harsh a regulatory sanction under earlier regulatory regimes. Its actions were judged under the then recently announced regulatory philosophy that dictated revocation of certificates for those engaged in fraudulent record keeping. I am not saying that strict enforcement is bad, or that under a strict regime the certificate of Northeast Jet would not have been revoked. But, it is clear that Northeast Jet had relied on the guidance of the local FSDO and had received favorable inspections over a number of years. There certainly was no intent to "defraud" the government. Our general flight and duty time procedures and maintenance record keeping system were known to and approved by the FAA FSDO.

There is reason to believe that Northeast Jet may have been caught in the middle of an internal policy dispute within the FAA. Appended to this statement is a copy of a letter written by Mr. Charles Parker of the Allentown FSDO suggesting that Northeast Jet's certificate was revoked in order to precipitate the retirement of a 47-year FAA veteran, John Doster, and the reorganization of the Allentown FSDO's responsibilities. (Attachment 2.) The previously referenced regional office review alludes to FSDO personnel's unhappiness with the "change in RO [Regional Office] philosophy about enforcement versus compliance" and concerns "that the regulatory training was substantive with the technical training not being current enough." (Attachment 1 at pp. 50, 58.) You do

not have to agree with the views expressed in these documents. Nor do I have any special insight into this aspect of the case. However, you should consider the possibility that Mr. Parker is correct in identifying a factor that could have influenced the severity of the sanction chosen by the FAA. If so, this Subcommittee should ask whether an individual or a company that he owns should be barred from the airline industry if there is even a chance that the FAA decision to revoke a certificate was motivated by considerations other than, or in addition to, the safety considerations cited in its Revocation Order.

A related consideration is somewhat more general in nature, but nonetheless worthy of this Subcommittee's attention. Regulatory styles change. For example, the Administrator of the FAA, Admiral Busey, in a speech that was well-received by knowledgeable individuals in the industry, announced an "amnesty" program designed to encourage operators to come forward and disclose violations of the FARs voluntarily without thereby incurring civil penalties. (Attachment 3.) Admiral Busey correctly noted that a system of voluntary disclosure which only results in financial penalties against the company discourages reform of company practices, which would promote safer operations. Implicit in this approach is the recognition that there may be industry-wide compliance problems in some areas, and that operators rather than FAA inspectors are frequently in a better position to identify and correct procedures to conform with FAA expectations. The FAA has now adjusted its enforcement strategies to encourage voluntary,

cooperative reform of non-compliant practices. The FAA should retain the flexibility to evolve enforcement policies, in light of the experience gained over time.

DISCUSSION OF SPECIFIC ALLEGATIONS AGAINST NORTHEAST JET

Northeast Jet has informally disputed many of the most alarming allegations concerning unsafe practices in informal post-revocation conferences with the FAA Regional Office. The Order of Revocation was issued without having provided Earl Holtz or Northeast Jet an opportunity to demonstrate that various of the allegations were incorrect or that the company had a valid legal defense because, in those areas where Northeast Jet had significant problems -- specifically in the areas of flight and duty time and logging of MEL items in aircraft maintenance logs -- Northeast Jet's practices were either completely or substantially known to, or approved by, local FAA inspectors. Any disputes about legal and factual issues ultimately would have been decided by the NTSB and reviewing courts, not the FAA office which instituted the revocation proceeding.

Since no authoritative decision has been rendered, it is inappropriate -- indeed contrary to our system of jurisprudence -- to convict a man on the basis of press reports. While the company elected not to contest these findings on the record, we find ourselves placed in that position by this Subcommittee hearing. Consequently, this testimony addresses various allegations made in press reports or in the FAA Order of Revocation, not for purpose of

establishing that Earl Holtz and Northeast Jet were wrongly accused, but rather to insure that the Subcommittee has available to it some of the information presented to the FAA Regional Office.

Cozy Relationships

There are many unfair implications in the public domain -- as opposed to the factual record of this case -- of undue favoritism by the FSDO to Northeast Jet. To set the record straight, the relationship was a professional one. Any airline or pilot wants to have a cordial, friendly, consultative working relationship with the local representatives of the Federal Aviation Administration. There are a number of half-truths and distortions that have been circulated to suggest that this professional relationship was an unseemly one.

With respect to specific allegations, I can recall providing no birthday party for John Doster, although we did have birthday parties for our employees and Mr. Doster may have showed up at one of these. While I have no specific recollection that he did, it is the only explanation that I can offer to explain why others may believe that he was given a birthday party. There was no after hours drinking or entertainment. I do not know where John Doster lives and did not socialize with him. He was offered a soft drink or coffee when he engaged in casual inspection visits. Most people would consider this to be a common courtesy.

There was no serious job offer extended to John Doster. Reports to the contrary are based on a standing joke that John

Doster could have a job mowing Earl Holtz's lawn after he retired. Appended to this testimony is an affidavit which recounts the conversation between my attorneys and John Doster in which he stated emphatically that at no time did he consider working for Northeast Jet. (Attachment 4.) This decision is understandable: As a high grade government official with 47 years of experience, he was already earning more money than Northeast Jet could have paid him working for Northeast Jet. Would this Subcommittee seriously consider barring a man from participating in the airline business because he had joked with an FAA employee, and that conversation was either misunderstood or misrepresented?

Flight and Duty Time

I would like to assist the Subcommittee in understanding how situations can arise in which companies fail to comply with FARs, especially in certain operational areas. A preliminary observation may prove useful to the Subcommittee. The current Part 135 regulations were formulated with reference to air taxi operations of years ago, which typically involved short-range domestic flight segments frequently performed with propeller-driven aircraft. The on-demand corporate jet service is much different. Approximately 20 percent of our flights involve international travel. While a flight may be planned to fall within the flight and duty time standards for Part 135 operations, a mission may not be completed due to delays in Customs processing, unanticipated weather, air traffic control delays, or other factors. The aircraft are small and, therefore, do not permit three or four member cockpit crews or

double crewing, which enables large aircraft operators to operate long over-water flights.

A significant amount of business done by Northeast Jet involved medical evacuation situations in which corporate jets were used to transport organs for transplantation or to convey patients to hospitals. There are often complicating factors which cause a mission of this nature to be delayed. Literal compliance with the FARs would suggest that a pilot must maintain that the organ or patient cannot be transported because the ensuing delay would cause a pilot to exceed flight and duty time regulations. Other allegations of flight and duty time infractions were explainable because of an ambiguity about whether a particular flight was being performed under Part 91 or Part 135 of the regulations. Moreover, if there were some Northeast Jet pilots who were "moonlighting," their flight-duty time violations would not have been readily apparent to the company.

To put this matter in perspective, the FAA Order of Revocation cites some 50 alleged flight and duty time violations. However, in the year prior to revocation, Northeast Jet performed 6,600 sorties. An examination of some of the cases suggested that perhaps as many as 10-15 percent of the flights could have involved medical evacuation situations; perhaps 20 percent involved the highly technical issue as to whether Part 91 and 135 applied; a similar amount of allegations made by the FAA were simply wrong; and the remainder of the cases mostly involved infractions of 20 or 30 minutes or less.

The local FSDO officials believed that they had the authority to interpret the FARs with sensitivity to the "real world" in which Northeast Jet operated. A letter is attached to this testimony reflecting the FAA FSDO's interpretation that flight and duty time regulations were guidelines that could sometimes be exceeded as long as the spirit of the regulation was observed. (Attachment 5.)

There was no attempt made to disguise a systematic program of flight and duty time violations, as one would expect if a company were intent on maximizing revenues through fraudulent bookkeeping and a business strategy premised on violation of flight and duty time standards. Pilots' scheduled flight times were posted on a board which was there for the Principal Operations Investigator (POI) to see, and there were no allegations that separate flight and duty time records were being used to deceive the FAA.

In judging Northeast Jet's culpability and whether the FAA's enforcement action was appropriate, you should also bear in mind that there is no evidence of any company policy -- official or unofficial -- to encourage pilots to falsify their manifests to understate flight and duty time. Pilots at Northeast Jet were not intimidated and were not afraid to record flight times in excess of the maximum on their manifests, apparently because the FSDO's interpretation of the flight and duty time regulations was well known to them.

Although there may have been inaccurate entries in some manifests, these discrepancies could have been adequately dealt with in the context of individual airman cases. Perhaps because of

this threat, individual pilots interviewed by FAA officials may have been tempted to exaggerate the frequency and causes of flight and duty time violations, to claim that there were extenuating circumstances that they hoped would exculpate their own conduct. Such self-serving statements should not be relied upon by this Subcommittee to establish that Northeast Jet was guilty of rampant violations of flight and duty time regulations.

MEL Procedures

The other area of significant FAA concern regarding Northeast Jet operations involved maintenance log procedures. Northeast Jet's Directors of Maintenance and Operations instituted a system under which pilots who were performing worldwide jet charter services would call the Director of Maintenance to review items of concern. These items would be written up in a logbook that was maintained in the Allentown, Pennsylvania base office. Under the FAA regulations, all questionable items also should have been listed in the aircraft log. Those items on which maintenance could safely be "deferred" should have been processed in compliance with regulations establishing Minimum Equipment List (MEL) procedures. Instead, pilots would log only those items which, after consultation, were deemed to affect "airworthiness," i.e., items that required immediate repair in order to operate a flight safely. The deferred maintenance items were logged only by the Director of Maintenance, who would see that these items were repaired when aircraft could be more conveniently serviced.

The FSDO was well aware of Northeast Jet's system for recording "squawks" and FSDO personnel were even involved in developing and refining the system. The need for this procedure apparently arose because of the perception that the MEL regulations in their early days were difficult to interpret. The fear was that if a pilot wrote up any item, it would have to be fixed before the aircraft could proceed, even though under MEL regulations many of these maintenance items are deferrable. For example, Northeast Jet was cited by the FAA for flying when the Director of Maintenance's logbook indicated "H/F Inoperative". This referenced a communications system which was required only if the aircraft were performing an international flight. Since all of the violations relating to this entry for which Northeast Jet was cited involved domestic trips, the gravamen of the FAA complaint is that Northeast Jet failed to properly execute paperwork that would have permitted the airline to defer the maintenance.

While the failure to follow established procedures to defer maintenance can constitute violation of the FARs, the safety implications concerning this bookkeeping system have been overstated. The pilot in command was required to confer with the Director of Operations and Director of Maintenance to determine whether the items about which they had a concern were of a nature to render the aircraft unsafe to operate, i.e., unairworthy, or whether corrective operational procedures could be employed to allow the flight to proceed safely, in which case maintenance could be deferred.

There is no suggestion that Northeast Jet tried to skimp on maintenance expenditures; to the contrary, Northeast Jet maintained an extensive spare parts inventory and performed all routine maintenance without deviation. Nor is there any evidence that the company failed to perform deferred maintenance once the aircraft returned to Northeast Jet's Allentown base, although there may have been questions about whether the item was deferrable under MEL regulations.

Northeast Jet's decision to not contest the FAA determination that its practices were in violation of the MEL procedures should not be interpreted as a definitive judgment that these practices were necessarily unsafe. However, I fully appreciate that all items should be logged so that FAA ramp inspectors can perform their regulatory mission. I worked with the FAA in the course of certifying the successor airline, Private Jet Services, to conform to the FAA's expectations. The company's new procedures will enable Private Jet Services to comply fully with MEL regulations.

In reviewing the FAA's determination that Earl Holtz is qualified to be involved in another airline, the Subcommittee should keep in mind that there was no fraudulent concealment of maintenance records, as would be expected if a company were intent on cutting corners by eliminating maintenance. Nor was there any intention by Earl Holtz to institute a system that was not in accordance with the Federal Aviation regulations, as interpreted by the FSDO. In fact, I recall that when the Director of Operations

described the revised procedure, I replied that he was free to establish a new procedures as long as it complied with the FARs. Since Mr. Kaye was in constant consultation with the FAA, there would be no reason to suspect that the FARs were being violated. While the charges of "double" bookkeeping supported a determination to revoke Northeast Jet's Certificate, it is questionable whether the FAA could have successfully contended it was "defrauded" when its local representatives knew of and condoned the practice.

In retrospect, I now recognize that I may have inadequately supervised the employees who instituted non-compliant MEL procedures. I have learned a painful lesson that I am ultimately responsible for establishing a system of compliance which insures that FARs are scrupulously observed. As part of the effort to certify Private Jet Services, I have instituted numerous voluntary procedures which are intended to permit easy audits and computerized cross-checks of data regarding maintenance.

New Directors of Operations and Maintenance with a strong commitment to FAA compliance have been brought into the company to replace those individuals who were responsible for developing noncompliant MEL list procedures. The perils of judging the merits of a case based on press reports is graphically illustrated by yet another misleading story in the June 15, 1990, Allentown Morning Call, which reported: "Besides Holtz, among those travelling from the old to the new Northeast Jet was the Company's director of maintenance, said FAA spokeswoman Kathleen Bergen yesterday." The facts are that two pilots, a handyman (who had previously been

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Director of Maintenance) and the chief inspector of Northeast Jet Center, a separately certificated repair station -- which was not charged with wrongdoing -- are now employed at Private Jet Services. The Chief Inspector of Northeast Jet Center is the Director of Maintenance for Private Jet Services. Before certifying the new company, the FAA required detailed information regarding these individuals' qualifications, as well as detailed information on new personnel. This provides further assurance that Private Jet Services is likely to be a model of compliance and an indisputably safe operation.

Training

Northeast Jet provided the FAA with information and documents demonstrating that, even before the revocation, the company had committed substantial sums of money to the training of its employees. Northeast Jet's training contract with Flight Safety International provided for expenditure of approximately $240,000 in direct costs for pilot training during the period of 1988-89. Under the terms of this contract, Northeast Jet would have derived no economic benefit if pilots failed to complete the recurrent training requirements. Northeast Jet was required to pay for its pilots' check rides whether or not they were actually accomplished. The company did not profit from the lackadaisical behavior of the Directors of Training and Operations, who failed to promptly file documents verifying that recurrent training and check rides, in fact, had been performed. There is absolutely no evidence that

Northeast Jet was in any way deficient in insuring that training was actually completed which is, of course, the paramount safety concern.

Apparently, the FAA's findings in this area were based on the lack of FAA documentation that training had occurred and claims by several younger pilots concerning training received as "new hires." After being apprised of these allegations, the company investigated personnel files and training records. The record clearly contradicts these allegations. For example, Roger Mayer stated that he was hired with only 1,100 hours of flight time, and received little training and only one hour of flight time before being approved to fly revenue flights. Mr. Mayer's resume and application for employment state that he had 1,560 hours of flight time, not the 1,100 hours cited by FAA inspectors. Moreover, Northeast Jet's personnel records indicate that Mayer received approximately 7 hours of in-air training before he flew his first revenue trip and that he then was assigned to fly as second officer with a senior pilot in command during a probationary period in which it was determined that he could fly on an unrestricted basis. (See Attachment 6.)

As to asserted deficiencies in hazardous materials recognition and emergency training procedures, Northeast Jet was again operating under procedures orally approved by the FSDO. The company's commitment to operate in conformity with the FARs was evidenced by the fact that Northeast Jet immediately took corrective action to require actual employee participation in emergency

drills after a critical observation during the course of an FAA inspection.

All of this evidence was adduced to demonstrate to the FAA that Earl Holtz was capable of operating a reorganized Northeast Jet in a safe manner. Since the training had actually been provided, the corrective measures indicated in this situation mainly involved appointing new managerial personnel with an appreciation of the need to submit reports to the FAA on a timely basis.

Weight and Balance

Northeast Jet's investigation of the weight and balance allegation contained in the FAA Order of Revocation revealed that a disproportionate number of the citations involved one particular aircraft -- a Jetstar -- with an unusual operating weight. In addition, it was observed that weight violations occasionally occurred due to significant discrepancies in the take-off and landing weights of the various Lear aircraft used by Northeast Jet. My response after learning of these violations was to adopt better training and closer supervision of pilots in order to prevent a future recurrence of inadvertent overweight take-off and landings.

Northeast Jet disputed allegations that pilots were encouraged to tanker excessive amounts of fuel in order to save money on fuel costs. The company did have a general policy of tankering fuel at

Allentown, but only as long as the aircraft was within the legal limits at its destination.

One of the few allegations that involved an accusation that Earl Holtz personally directed a pilot to violate an FAA regulation was intensively investigated. Mr. Beamer apparently told investigators that on June 28, 1987, Earl Holtz called him and demanded that he go into Warrensburg, Missouri overweight. I recall that Mr. Beamer awakened me at 6:00 a.m. on weekend morning to report that he had proceeded to an alternate airport, Columbia, Missouri, because of a weight problem. Under no circumstances did I advise Mr. Beamer to go into Warrensburg overweight or to break or bend any FAR. I recall asking if, having consumed fuel en route to Columbia, Mr. Beamer could proceed to land within the weight restrictions at Warrensburg, to which Mr. Beamer replied that he could now make a correct and legal landing at Warrensburg after departing Columbia. I do recall criticizing Mr. Beamer for taking on more fuel than required, which evidenced his inability to plan the flight correctly.

Northeast Jet certainly did not profit by Mr. Beamer's inability to plan a flight correctly. Mr. Beamer did not think to burn off excess fuel en route to become legal at his destination, which would have been far more economical than to have landed at another airport, incurring landing fees and adding an extra cycle to the engine -- thereby increasing the aircraft's maintenance costs. Moreover, he had not sought directions until he had already landed, which, under the circumstances, suggests an apparent

attempt to fabricate a "safety-related" excuse for his foolish mistake to take on more fuel than required to perform his mission.

Like any competent manager, I must be concerned that fuel and operating costs are reasonably incurred. However, this understandable concern that fuel not be wasted by a pilot who incompetently planned a trip has somehow been miscast as a direction that pilots tanker excessive fuel for the alleged purpose of saving a few pennies per gallon. This Subcommittee should know that Mr. Beamer was subsequently fired by the corporation. Under these circumstances, Mr. Beamer would seemingly have an incentive to claim, in retrospect, that he was dismissed for adhering to overweight landing regulations, rather than admitting that he was reprimanded for taking on excessive fuel, which then required that he perform a very costly deviation from his planned flight.

There is one general point that may be helpful in evaluating the gravity of this situation, and understanding the potential reasons that motivate pilots to fly overweight. The FAA approved manuals provide that, after an overweight landing, the pilot is to perform a walk-around inspection of the aircraft to ascertain whether there has been any damage. The unfortunate assumption that may have been created in the minds of some pilots is that a violation of overweight regulations could be readily "cured" by examining aircraft to detect physical damage. Be assured that I frequently examined aircraft and would have detected physical damage that might have suggested that planes were being consistently operated in violation of the weight restrictions. However,

I did not detect evidence, such as blown tires, cracked wheels, or evidence of structural weakness, that would have caused me to inquire further into pilots' practices in these areas.

The FAA, as a basis for its Order or Revocation, chose to act on allegations, some of which could have been motivated by a personal grudge or self-interest in avoiding blame for a violation. However, the Order of Revocation is more in the nature of a complaint or an indictment by a prosecutor. The final decision about disputed recollections concerning my personal knowledge of weight and balance violations would have been that of the NTSB or the court.

There was available, however, a better mechanism for advancing the objectives of the Federal Aviation Act. Rather than fighting about the occurrence or significance of past violations, the FAA and I agreed to devote our respective energies to building and regulating what is in effect a new airline that will comply in all respects with the Federal Aviation Regulations. Written procedures were accordingly adopted to insure that the amount of fuel taken on at the point of departure would permit a legal landing at the destination airport.

Fictitious Accounts of Dangerous Trips

In order to curry favor with FAA inspections, some pilots apparently fabricated "horror stories," the most notorious of which were subsequently examined and discounted. For example, the allegation that Northeast Jet transported passengers form Helsinki

to London using an aircraft with an inoperative engine was rebutted by providing the FAA with the attached documentary evidence that substitute transportation had been provided after the aircraft experienced engine problems in Helsinki. (Attachment 7.) Likewise, allegations concerning a January 12, 1988 flight which was performed without emergency oxygen and at low speed and altitude were easily refuted by evidence that the oxygen system complained of did not leak on subsequent flights, and that the aircraft would have stalled out if operated at the speed and altitude alleged.

Significantly, none of the pilots chose to make contemporaneous complaints to the Chief Pilot, the Director of Operations, or senior management about the allegedly unsafe conduct of other pilots. When grumbling about a particular pilot came to my attention, I asked the Director of Operations to investigate and issue a reprimand.

I am sure you will appreciate the painstaking effort required to collect the physical or documentary proof necessary to refute these sorts of sensational allegations. The company was required to engage in this process before the FAA permitted Private Jet Services to be certificated. I assure you that it is an exercise I do not wish to repeat. Therefore, I have every reason to guard against employing pilots who could be accused of operating unsafely.

Cargo Nets

Northeast Jet did not have a substantial cargo business. It amounted, at most, to 3-5 percent of operations. Contrary to allegations recounted in the FAA Order of Revocation, cargo nets were available -- one for each airplane at the time the revocation was entered -- and it was company policy that they were to be used. Northeast Jet had a clear economic incentive to require that pilots use cargo nets and cargo liners, as their use would protect the interiors of Northeast Jet's aircraft. After the revocation, I learned that some pilots neglected to ask that the cargo nets be installed, and corrective measures were taken to resolve this problem.

Other Potentially Damaging Allegations

Unfortunately, your entirely understandable interest in reviewing FAA policy with respect to enforcement and certification policies has the unintended result of providing yet another forum in which some individuals may attempt to air highly damaging, yet unsubstantiated or exaggerated, allegations. As this testimony is designed to suggest, painstaking investigation is often required to get at the truth. I therefore respectfully request permission to supplement this statement to respond, as needed, to statements that have been made by other witnesses today.

CONCLUSION

In closing, let me summarize the process by which Northeast Jet was re-certificated to operate as a fundamentally new airline -- Private Jet Services. First, there were a number of candid, informal discussions between the FAA and Northeast Jet's attorneys in which both the allegations that formed the basis to the Revocation Order and the evidence developed in the course of Northeast Jet's own investigation were discussed. Both parties focused on identifying the scope and causes of Northeast Jet's problems, rather than quibbling about whether or not specific violations could be proven. I believe that this exchange helped to persuade the FAA that I did not personally violate any FARs or mastermind an intentional scheme to undermine FAA regulation, because I did not. If asked to offer recommendations for improvement in FAA enforcement policy, I would suggest that this process of constructive engagement begin before, not after, an Emergency Order of Revocation is issued.

Second, Private Jet Services was required to demonstrate in the course of its certification that the causes of the company's nonconformity with FAA regulations were correctable. Since we had relied -- rightly or wrongly -- on local FSDO guidance, I was willing and able to accept the direction of the FAA project manager assigned by the regional office and subsequently appointed FSDO managers.

The third important component of the re-certification process was the company's efforts to voluntarily identify and implement

audit and procedural safeguards which will assure that problems will not arise in the future. These procedures are designed so that the FAA, as well as the operator, will be able to identify trouble spots more quickly and easily.

Thank you for allowing me to testify. As I indicated in the beginning, it is my sincere hope that once this Subcommittee understands the full story behind the revocation of Northeast Jet and the reincarnation of its successor, Private Jet Services, you will agree that the FAA was not too lenient. The issues in this case -- and probably other cases which you could have chosen to investigate -- are very complicated. The FAA should therefore retain its current discretion to process certificate applications under current regulatory policies.

I am more than willing to answer your questions, although past experience has taught me I should not respond without first consulting the FARs, the FAA, and my attorneys. For that reason, they are also here to answer your questions.

* * *

Attachment-1

Correspondence is answered in a professional, expeditious manner which has enabled this [illegible] to maintain a good working relationship with the aviat[illegible] community it supports.

Although the operations uni[illegible] been short staffed, the office manager and newly appoint[illegible] unit supervisor seem to have the operations functions unde[illegible] control. Additional staffing will only increase the office's p[illegible] activity.

The operators files maintai[illegible] in the FSDO are in a neat orderly manner with only very minor [illegible]lems.

Li

~~Office~~ Evaluation of office Done in March 1988 JP

The human resource portion of this evaluation was conducted by John J. Hay through interviews with yourself and members of your staff.

1. EMPLOYEE MOTIVATION

Findings:

Workforce is will motivated with a high degree of employee satisfaction.

Office opinion differed on current state of employee morale.

Office management style was described as participative.

Employees have a clear understanding of what their duties and responsibilities are.

Performance Evaluation Ratings (PER's) administered on a timely basis, with most employees viewing the process as positive.

Majority of staff feels office manager does provide immediate negative feedback, when needed, in a constructive and non-personal manner. Some office personnel feel that the office manager has shown marked improvement in this area in recent years.

Clerical workforce extremely well motivated. They are a dedicated, cohesive unit, knowledgeable in all office functions.

Discussion: Employees of the Allentown FSDO appear to be well motivated professionals. Office personnel indicated that the performance of their duties gives them high satisfaction and that they enjoy coming to work everyday. The office staff did differ on their opinion about current state of employee morale. About half the staff described morale as very high, while the other half felt it was down at the current time. Some of the positive comments about office morale were:

"Morale is fantastic here, best office I've worked in;" "Morale is as high or higher than any FAA office I've ever worked in;" "I've had four bosses in the FAA, Mr. Doster is by far - the best;" "John and the unit supervisors are not unreasonable men...they're very fair;" and "we're a great family here, everyone is very friendly, John treats you with respect...I enjoy coming to work."

On the other side of the coin, some personnel felt morale to be down at the current time. Although these employees still basically felt good about their office environment and enjoyed coming to work, they expressed a feeling that office morale had been better at one time. The reasons they gave for this decline were varied and not all controllable (i.e., due to lack of

staffing and workload problems, especially on the Operations side of the house; recent loss of personnel to training, special projects and inspections; retirement of three "key" personnel; excess emphasis from Regional Office (RO) on division automation; lack of RO responsiveness to field; and change in RO philosophy about enforcement vs. compliance).

The office manager is viewed as a caring human being with a participative management style. In fact, the best quote that reflected the office feeling towards Mr. Doster's management style was, "direct and informal". Everyone interviewed felt that Mr. Doster does seek input and suggestions from his staff in the management of the office.

The office manager provides the staff with a clear definition of their job responsibilities (i.e., accurate position descriptions and performance standards) and they know exactly what is expected of them.

Employees develop their standards with the office manager (new unit supervisors) at the beginning of the rating period, have a mid-year review and then a final review. Most personnel view the process as fair. "John has always been more than fair." "John leaves it open for discussion, he makes you want to improve."

The majority of personnel feel that Mr. Doster attempts to provide honest feedback on job performance, whether positive or negative. Conflict is dealt with, usually in a positive manner. "Most of the time, Mr. Doster tends to be very diplomatic, but he always gets his point across." Some of the staff applauded recent changes by the manager of his behavior in this area. They feel he has "mellowed" or gotten "more sensitive" over the last few years. "He use to tend to be a little too public about expressing adverse feeling towards employees, but he has improved in recent years."

When it comes to the Allentown FSDO clerical workforce, a more motivated group of employees you will not find. Taking the initiative to cross train each other, they know every aspect of the office's operation. Working truly as a team, they are greatly appreciated by all professional personnel. They are performing their duties at such a high level that they easily could serve as an example of the "ideal clerical unit" for the Flight Standards Division field office.

Conclusion: The office staff is well motivated, especially the clerical unit. Although opinions may differ about the current state of morale, people generally like their work environment and enjoy coming to work. The office management style is described as participative. Employees have a clear understanding of what their responsibilities are. The current performance evaluation process is described by the office personnel as fair. Office manager should continue to improve negative feedback in a constructive, private and non-personal manner.

Recommendation: The most important recommendation to improve employee morale is to increase staffing (at least two inspectors) in the Operations Unit. AEA-210 should work with the office manager in accomplishing this objective. Also, AEA-210 and AEA-260 should make an additional effort to be more responsive to the field. Thirdly, by mid-March, majority of personnel should be returning from military assignments, supervisory training, Headquarters' special projects and NASIP inspections. This problem should resolve itself. Fourthly, it's important to the morale of the inspector workforce that field and Division leadership have a consistent philosophy and work together as a team in accomplishing overall Flight Standards objectives. Therefore, the office manager should attempt to resolve any philosophic differences that may exist with division leadership (AEA-200,201) concerning the compliance vs. enforcement issue, with both sides listening and learning from each other. Finally, the office manager and his unit supervisors need to always remain sensitive when providing negative feedback on employee performance.

Action: Allentown FSDO-Office manager and unit supervisors. Regional Office-AEA-200/201, 210 and 260

2. JOB ENRICHMENT

Findings:

Office Staff felt like they do have input into the development of office objectives and setting of priorities.

Employees are strongly encouraged to offer suggestions for improvement, both inside and outside their specific work assignments.

Majority of employees feel that the current office staffing level is not appropriate for current office workload.

Office physical work environment is considered great by entire staff.

Inspector and clerical work force given sufficient freedom and responsibility to carry out job functions.

Manager and staff extremely service orientated towards public.

Through management's support and their own initiative, clerical staff have greatly enriched their work experience through cross training.

To further enrich the "support environment" and provide a developmental experience, clericals should be allowed to occasionally accompany inspectors during the performance of their duties in the field.

Discussion: Frederick Herzberg defined job enrichment as, "the deliberate upgrading of responsibility, scope and challenge in work." Mr. Herzberg also believes that people will respond in responsible and productive ways to a work environment in which they are given an opportunity to grow and motivate. It is his theory that people begin to satisfy their esteem and self-actualization needs by participating in the planning, organizing, motivating and controlling of their own tasks.

To begin with, all employees interviewed indicated that they do participate in the development of the annual office objectives and the setting of common priorities (i.e., annual work program and inspector planned activities by the month and week). Furthermore, daily, weekly and as needed staff meetings are conducted in a participative fashion with all employees strongly encouraged to offer input. The majority of employees interviewed indicated that their input is listened to and often acted upon. This is an important point, for office effectiveness always increases in a participative environment where subordinates play a substantial role in setting their own goals. All research in this area has indicated that commitment increases when people are involved in their own goal setting. When individual workers are involved, they will tend to engage in much more goal directed

activity before they become frustrated and give up. On the other hand, if their boss sets the goals for them all the time, they are likely to give up more easily because they perceive these as their boss' goals and not as their own.

Another good point about the Allentown office work environment is the high level of employee pride which exists among the entire staff. Although the workload has been heavy of late due to temporary staffing shortages, various personnel have "pitched in" to perform extra duties to make sure the job gets done. Allentown employees reflect a feeling of pride in doing their jobs well. This is also reflected by the office manager in the high standards he sets for the office towards service to the public. From the clericals to the inspector work force, people take pride in being responsive to the public. For example, the clerical unit is very proud of the fact that it is one of the few remaining Flight Standards field offices that still give written tests five days a week. They are also proud of the fact that they handle many overflow customers from the Philadelphia and Harrisburg areas. This pride is reflected in their outstanding job performance. By allowing them the freedom to direct their own efforts towards accomplishing organizational goals, the office manager has helped them unleash their potential. Through this trust and freedom, they have developed a clerical team second to none. They have effectively utilized particular employee strengths by building on what individual employees do well, and have expanded the nature of these positions through extensive cross training. Due to their desire to do the best possible job they can, the clerical unit did express an interest to better learn office operations by occasionally accompanying an inspector while in the field. We feel this to be an excellent developmental opportunity, and should greatly enrich their work experience.

Office pride is also reflected in Allentown's wonderful physical work environment. Besides being neat, clean and professional looking, employees have the freedom and desire to decorate the office in celebration of holidays and seasonal events.

Conclusion: Overall, the Allentown FSDO work environment is rich with a high level of employee freedom and satisfaction.

Recommendation: Recommendation to increase staffing previously mentioned under the category of Motivation. Second recommendation concerns developmental opportunity for clericals by allowing them to occasionally accompany inspectors in the field.

Action: Allentown FSDO-Office manager and inspector workforce.
Regional Office-AEA-210

3. OFFICE COMMUNICATION

Findings:

The communication process in the Allentown FSDO is excellent. Office manager and his supervisory personnel promote an open door policy.

Flow of information both up and down the organization is good.

Office staff meetings are held on a daily and as needed basis, utilizing a participative management style.

Employees feel secure enough with office management to voice divergent opinions.

Operations and Airworthiness Unit personnel enjoy an excellent working relationship.

Monthly and weekly printouts of open items viewed as helpful by inspector workforce.

Mail problem exists between Allentown and Allegheny County FSDOs.

Mixed feelings among Allentown personnel towards amount of information coming out of Regional Office.

Discussion: The communication process in the Allentown FSDO is excellent. Mr. Doster holds daily informal staff meetings at the same time each day, with both operations and airworthiness personnel in attendance. He also holds ad hoc all hands' meetings whenever information needs to be communicated. Employees stated that these meetings are held in a relaxed, participative fashion with a free exchange of information always encouraged. The majority of employees interviewed felt they had free access to the office manager and supervisory personnel and felt the flow of information both up and down the office to be excellent.

Office opinion was definitely divided concerning the amount and type of information coming out of the Regional Office (i.e., telemail, WPMS, telecons, etc). Some employees see this information as being very helpful and timely, while others felt it was too work intensive. However, the entire inspector workforce did feel that monthly and weekly printouts of open work items provided by the clerical unit had helped them greatly towards controlling workload and accomplishing objectives.

Employee are also invited to attend monthly telecons if available. The office manager tapes these telecons for those employees who can not be present. Majority of personnel stated they felt secure enough in their relationship with the office managerial staff to offer divergent viewpoints without fear of

reprisal.

Operational and Airworthiness personnel at the Allentown FSDO truly work as a team. They have one of the best working relationships that we have found among any of the Eastern Region FSDOs. This is due in large part to the efforts of Mr. Doster. He has always insisted that Operations and Airworthiness personnel sit side by side in the office, and not in separate units. He also has always insisted that they share common staff meetings to enhance the free exchange of ideas between discipline. In fact, the only communication problem that currently exists at Allentown is one of mail distribution. It seems that under the new FSDO classification of offices, Allentown and Allegheny County have been receiving each others' mail (i.e., FSDO-03 vs. old GADO-03).

Conclusion: We compliment Mr. Doster and his entire staff for creating an open atmosphere where all individuals feel free to participate in discussions and exchange information, utilizing a true collaborative approach towards problem resolution.

Recommendation: The office should continue to communicate the way it has been.

Action: AEA-210 should address mail distribution problem between Allentown and Allegheny County FSDOs.

4. EMPLOYEE RECOGNITION

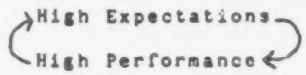
Findings:

The majority of employees interviewed feel they do receive sufficient formal and informal recognition from the office manager for their work activities.

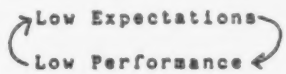
Discussion: Satisfying factors that involve feelings of achievement, professional growth, and recognition that one can experience in a job that offers challenge and scope are referred to as motivators. Frederick Herzberg used this term because these factors seem capable of having a positive effect on job satisfaction, often resulting in an increase in one's total output capacity.

Recognition is gained through competence and achievement and is earned and granted by others. However, it is still the manager's responsibility to provide those positive strokes when needed or deserved. All people have a need for strokes (warm fuzzys) and they will work hard to get them. Ignored people will engage in all sorts of creative activities to get strokes, even if they are negative. For given a choice between no strokes or negative strokes, most people will opt for negative strokes.

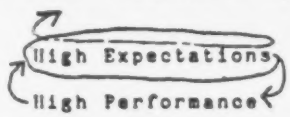
The employees interviewed, generally felt that the office manager is consistent with pats-on-the-back for jobs well done and will give performance awards when deserved. Furthermore, Mr. Doster received some of his highest marks for having high expectations and showing confidence in his people. Every employee likes to have their supervisor's high expectations for they feel that means that supervisor has confidence in their abilities. When employees respond to the high expectations of their manager with high performance, Rensis Tibert called this occurrence the "effective cycle", as illustrated below:



The opposite of this is the "ineffective cycle"



These cycles are depicted as static, but in reality they are very dynamic. The situation tends to get better or worse. For example, high expectations result in high performance, which reinforces the high expectations and produces even higher productivity. It almost becomes a spiral effect as illustrated below:



In many cases, this spiraling effect is caused by an increase in leverage created through the use of the motivators. As people perform, they are given more responsibility and opportunities for achievement, growth and development. This spiraling effect can also occur in a downward direction. Low expectations result in low performance, which reinforces the low expectations and produces even lower productivity. It becomes a spiral effect like a whirlpool.

This information is given only to reinforce the office management style when it comes to employee recognition.

Conclusion: We believe that the office manager does make a consistent effort to pass out positive strokes to the workforce. He also makes appropriate use of the Incentive Awards Program when warranted. His actions in this area has had a positive effect on employee morale. All we can say is keep up the emphasis on employee recognition, it's so important!

As the President of the American Management Association recently stated at a national conference, "95% of American managers do not provide enough positive strokes to their employees...you can

never recognize your employees enough."

Recommendation: Keep a constant emphasis on employee recognition, both informal and formal, and show confidence in employees who have shown they deserve it.

Action: None

5. EMPLOYEE DEVELOPMENT

Findings:

Office management places strong emphasis on employee development.

Yearly office training requests submitted on time to Regional Office.

Cross training occurring in clerical staff.

Office opinion divided on quality of FAA training in Oklahoma City.

Excellent informal orientation training program for new employees.

Need for a more formalized/on-the-job training program for new employees.

Discussion: The majority of employees interviewed felt that the office manager strongly supported employee development. The office's annual call for training requirements is submitted each year on a timely basis, with each employee having input into the training they want. Although every employee seemed to have at least one bad experience with training courses either cancelled or postponed, most felt they received the training necessary to perform their duties. Pertaining to on-the-job training, most new employees are placed "under the wing" of a senior inspector and "thrown into the lake". We especially liked the was senior inspectors accompany new inspectors making all appropriate introductions. This extra effort by the senior inspectors is greatly appreciated by the new employees and makes a smooth transition with the aviation community. However, some of the employees would still like to see a more formalized on-the-job training program established within the office. Guidance for developing such a program can be obtained from the Pittsburgh FSDO which has an excellent formalized training program for its new employees. Besides the "hands on" guidance they give to new employees, they utilize an excellent on-the-job training guide. They also have developed a practice where they take time to prepare new inspectors on the various subject matter that they will face at the indoctrination string course at Oklahoma City.

The clerical unit has been cross trained in each others duties and responsibilities. They feel that if they need a training course they can get it. The inspector workforce expressed mixed opinions about the quality of FAA training courses. Most felt that the regulatory training was substantive with the technical training not being current enough.

In conclusion, this interest in the development of his employees has flowed down from Mr. Doster to his inspectors and to his outstanding clerical unit. The office should be complimented for the effort they have expended on training and developing their personnel.

Conclusion: The Allentown FSDO has an active and healthy employee development program.

Recommendation: The office should continue its current employee development practices. However, we recommend you call the Pittsburgh FSDO for advice and guidance on developing a more formalized orientation program for new employees.

Action: Allentown FSDO manager in conjunction with AEA-210 and the Pittsburgh FSDO manager.

In conclusion, the Allentown FSDO was very effective in their utilization of human resources. One of the greatest compliments a manager can receive is the knowledge that their employees enjoy coming to work. This certainly is the case at the Allentown FSDO. With the human resource policies described above, coupled with the excellent physical working conditions, have made this office a fine place for people to work.

Attachment-2

March 4, 1989

Sect'y Samuel K Skinner
DOT
800 Independence Ave.
Washington, D.C., 20590

Dear Mr. Secretary,

Regarding your remarks about flight #811 on your TV appearance 2/27/89. I agree with all you said except your comments about the professionalism of the F.A.A. The enclosed excerpts of the national directory for the F.A.A. indicate those offices not occupied by pilots which certainly should be occupied by professional, experienced and current pilots.

These people need those basic qualifications in order to understand the needs of the industry. At present, these positions seem to be filled by cronyism rather than by the needs of the service.

An ATP certificate and the outlined experience will not, of course, make the kind of expert we need, but such an expert will not be found without those qualifications.

I retired from the F.A.A. yesterday, 3/3/89, in disgust with some of the things outlined here and in the enclosed material. Believe me, it was not easy to give up this $52'000 a year job, but too many of us have been backing up to the pay table for too long!

Charles F Parker

I am completely disgusted with FAA attitudes toward the flying public and operators. The FAA left a lot to be desired when I joined it nearly eighteen years ago. It has gone downhill from there without visible pause. It would be easier to catalogue what is right than to say what was wrong. A few of the "rights" are the biennial flight review (which is improperly run and monitored), the new Practical Test Standards, the resuming of FAA taking over the initial certification of flight instructors, and DOT/FAA ORDER 1000.9D, which calls for fairness and reason in the conduct of furthering aviation as well as enforcing the FAR's. The intent of this ORDER is too often given short shrift in my experience. Our attitude is becoming worse as time goes by.

I took the APS position in 1980 because I felt that I could use my experience and expertise to help members of my profession and avocation, and because I could no longer tolerate some of the above shortcomings in my function as an operations inspector.

American Aviation is amazingly safe. It is safe in spite of the FAA, not because of it. Our enforcement policy has become adversarial and arrogant. Inspection findings are full of an individual's opinions which neither the operator or the certificate holding office is able to reason with the perpetrating inspector(s) to change to conform to existing FAR's. Enforcement sanctions are more often designed to punish than to gain regulatory compliance as in accordance with existing policy Order DOT/FAA 1000.9D, October 18, 1982, 1. Para 4b (1) and (2); 2. Para 5b; and 3. Para 5D (4), (5), and (6); 4. Para 5 (c).

More specifically, the Eastern Region's Flight Standards and Legal Departments have conducted enforcement investigations and imposed sanctions in a manner which should at least have caused a thorough investigation of these two departments by the FAA Headquarters. Two large air taxis have had their certificates revoked, throwing many people out of work and, of course, destroying years of effort and financing by management.

While I am not all that familiar with Flight Group, I know that the finding that caused the revocation was "surrender of operational control" to an uncertified broker. While this is unarguably a violation, it was easily correctable with far lighter sanctions. The uncertified broker remains in business.
In the enforcement action, I have been given to understand that insufficient evidence existed to prosecute the allegations.
The regional attorney then on the case was replaced when he pointed this out. They then entered Federal Court with boxes of blank paper, indicating that these were evidence of violations, thus bluffing the operator into surrendering his certificate.
The Operations Supervisor of AEA-FSDO-05, was called into New York and directed to prepare the E.I.R. He was commanded that

the sanction would be "Revocation" and not to claim lack of supporting material.

The second air taxi, IJA, d/b/a Northeast Jet Company, was an above average jet passenger carrying operator. I was the Principal Operations Inspector of the predecessor corporate operation whose pilot was Earl Holtz. He became president as the corporate operation evolved into Northeast Jet Company. I was the responsible Principal Inspector until March of 1983 when I stopped flying Learjets because the region failed to keep me current in accordance with Handbook 4040.9. During that period, Eastern Region twice authorized a non-renewable 6-month extension of my authority to give checks in Lear Jets in violation of FAA procedures and good operating practice. Two years later I resumed Lear Jet checks (without Principal Inspector responsibilities) at my manager's request, with the understanding that Region must keep me current in accordance with 4040.9, and continued in that status until it became apparent in February 1988 that Region had no interest in my currency, and I again stopped giving Learjet checks.

During those periods, I never saw an unairworthy Lear Jet of Northeast Jet's. You could eat off the hangar floor. Everything about their facilities was outstanding. I am sure that violations did exist; some of them serious. However, reason and basic FAA directives would indicate serious sanctions but not revocation. Scurrilous personal official behavior by FAA investigating inspectors was rampant. Pilots were called in and told that they would be exempt from prosecution if they bore witness against their fellow pilots but would otherwise be prosecuted. The President was advised that he would be criminally prosecuted if he fought the allegations legally. If my allegations are true, these are criminal acts and are a disgrace to the FAA and to the nation.

I believe that the driving reasons for these actions was Eastern Region's Flight Standards Management's desire to replace the office manager of AEA-FSDO-05. In my opinion, this has nothing to do with the ability, qualifications or conduct of this manager of 48 years successful FAA service, but is in the interest of inserting Eastern Region's Flight Standards "clique" personnel into this position as attested by their success in accomplishing that at Allegheny County, Baltimore, Philadelphia, Rochester, Teterboro, Washington and the New York ACDO.

They have repeatedly advised the Allentown FSDO-05 Manager to retire, and more recently, have given him a letter reassigning him to Teterboro as Assistant Manager. In fact, the Manager was advised that if he did not consider retiring, an investigation of his office would be undertaken and they would find something wrong, regardless. They also intimated that adverse action would be taken against his office inspectors if he tried to fight their decisions. He decided not to retire at that time and they did investigate our office on November 7 - 10, 1988.

All they could find were opinion items, but they weaved a report on fabricated items and allowed our Manager only a day and a half to reply to their allegations. Most of the allegations have been proven false and misleading but again this report was not even allowed to be presented as our Manager's rebuttal when he was ordered to the New York Regional office to answer the report. The report was not even addressed; their decision was already made.

Then the Operations and Airworthiness supervisors were called into Regional headquarters and told that they were transferred to the headquarters. They were told that this had nothing to do with their performance but was retaliatory because the office manager had refused to retire. They were further advised that failure to report would result in their being fired.

Human Relations?: HAH!

I have no personal axe to grind in any of this. I am simply ashamed and mortified to be a member of an organization that behaves in this fashion or blindly allows this behavior to injure my profession. I hope only that I can bring attention and correction to some of these problems.

Sincerely,

CHARLES F. PARKER

Attachment-3

REMARKS BY
ADMIRAL JAMES B. BUSEY
ADMINISTRATOR
FEDERAL AVIATION ADMINISTRATION
BEFORE THE AERO CLUB OF
WASHINGTON, DC.
MARCH 27, 1990

I am pleased to be with you this afternoon, and I'm especially grateful for the chance to talk to you about the most important subject I can think of: aviation safety. I'm also grateful to the AERO Club of Washington for making this opportunity to talk to you possible.

Several weeks ago, I announced a major safety initiative. It primarily affected the general aviation community. After months of study and evaluation and an extensive series of listening sessions across the country, we at the FAA came up with a new program--a program we are confident will improve safety by encouraging compliance with our aviation regulations.

I announced our plan to establish a renewed partnership with general aviation to make our skies safer for everyone. This program emphasizes better and increased communications between FAA and the general aviation community. In addition, it encourages FAA inspectors to use all available tools--administrative action, education, training, as well as legal enforcement action, to achieve compliance.

One of our many initiatives was to rescind the mandatory 60-day grounding of pilots for certain airspace violations. Our overall objective is to reestablish solid lines of communication with the general aviation community so that we will achieve a higher level of compliance with a resulting higher degree of safety. I think general aviation will be well served by these initiatives.

Today, I intend to talk about another important sector of the aviation industry, a sector whose activities will involve some 480 million passenger enplanements this year and a billion enplanements a year before the year 2010.

I'm speaking, of course, of the commercial sector, the air carriers who provide a service vital to the free world and essential to the economy of our country. We hold these companies to the highest standards of compliance and safety performance. We hold their pilots to our highest standards of medical fitness as well as the highest standards of professional skill and performance.

Now when I say we hold these pilots to these high standards, I'm not suggesting that we have an inspector in every cockpit, or in every maintenance shop, or at every security gate...at least not 100 percent of the time. We all know that in terms of manpower and money that's not possible. But, more importantly, it's really not necessary.

It's not necessary because fortunately, in this country, we have a long and fundamental tradition of voluntary compliance. Voluntary compliance: it is arguably one of the most important precepts of our democratic system of self-governance.

We assume people will voluntarily pay their taxes and will voluntarily comply with a whole host of laws and regulations. We assume it because we have imposed these taxes and regulations upon ourselves. We do this to assure the common good, and our individual safety and security. If people don't voluntarily obey these regulations, they are subject to stiff penalties.

The Federal Aviation Regulations--the FAR's--are nothing more than an extension of this concept applied especially to aviation. Voluntary compliance is essential here, too, both to the concept and the process.

We have traditionally relied on the carriers to voluntarily comply with the regulations which were crafted to assure the highest level of safety and security for the traveling public. In fact, the Federal Aviation Act of 1958 requires each certificate holder to comply with the regulations.

Of course, as a regulatory agency, the FAA fields inspectors to make certain the letter and the intent of the regulations are being adhered to.

Since deregulation, commercial air traffic has increased significantly. Demands on our inspector work force have increased, but our primary focus remained to assure safety through compliance.

In the late 80's, the FAA began to encourage the airlines to conduct their own internal audits. We reasoned that by encouraging airlines to conduct self-examinations and find and report problem areas, we were, in effect, exponentially increasing surveillance and compliance.

This was a good start. But, since that start some carriers have expressed concern that the FAA proceeded with enforcement actions even when the carriers own audit teams, not FAA inspectors, detected violations. Consequently, as might be expected, reporting never has become widespread. The process doesn't work.

I can tell you this is a major concern to me. The system isn't working as intended. As a result, I believe we have lost two major opportunities to enhance safety and compliance.

First, we don't know what priority, if any, the carriers are assigning to internal audits.

Second, the FAA has lost a potentially valuable source of information on trends and common problem areas within the industry. This source has the potential to identify problems that may be systemic among all carriers.

Instead of taking a positive step forward in our quest for a safer aviation system, we are, in my opinion, blocking ourselves from moving forward. This isn't acceptable.

I want to promote a spirit of cooperation--a new relationship with the aviation industry--so that we can work together to identify and correct deficiencies before they actually affect the safe operation of aircraft. I want to revitalize the partnership for safety.

Therefore, today I am announcing a major change in the FAA's enforcement policy. Simply stated, it is this: If you discover an inadvertent violation, correct the problem, report it promptly to the FAA, and put in place a permanent fix acceptable to FAA to make sure it will not happen again, the FAA will not penalize you...Period.

In other words, we want to encourage carriers to shift their resources from contesting punitive enforcement actions to making their operations safer. Internal evaluation promises to benefit the aviation industry and the FAA by allowing each of us to use our resources more positively, intelligently and effectively.

This new policy--which I am sending shortly to the CEOs of major airline companies--is based on the time-honored principle and statutory mandate that primary responsibility for monitoring and ensuring compliance lies with the certificate holder. It also takes into account the fact that the 200,000 people in the industry are in the best position to put their own houses in order.

By the same token, it also recognizes the fundamental reality that the FAA, with its relatively small corps of inspectors, cannot police every aspect of the industry, cannot crawl through the belly of every aircraft, look over the shoulder of every pilot, or personally screen every passenger and piece of luggage that flies in the system.

The system was never meant to work that way, and I want to make sure FAA policy reflects that reality.

I want to encourage executives of airline companies to monitor personally the safety of their operations as closely as they monitor their bottom line. In fact, high-level corporate oversight is key to the success of any internal evaluation effort. It means providing continuous review and oversight of policies, practices, procedures, and systems to maximize safety.

This may involve designating a safety auditor or setting up a separate safety department reporting directly to the CEO. Or it may be some other structure that becomes an integral part of everyday management.

Of course, the structure a company decides to use is up to the company.

In July of last year, the FAA began a six month process of holding meetings throughout the country to discuss the concept of internal evaluation. Represented at these meetings were 30 Part 121 airlines, 30 Part 135 operators, four air carrier associations, 25 FAA field offices, and all nine FAA regions.

Reaction to the concept has generally been positive, and I am heartened by the fact that some major carriers are developing their own version of an internal audit program. I applaud their efforts. And I am confident that the further incentive I have announced today will serve as an acknowledgement to the carriers who have taken the lead and encourage the rest to follow.

There is also one other point I'd like to make. Internal evaluation is totally consistent with the Total Quality Management concept we are currently promoting at the FAA.

TQM, as it is known, is essentially a process for continually improving products and services. It is catching on in a broad range of industries across the nation. You may have heard of it. I predict TQM will revolutionize the way industry does business, and I predict it will help the U.S. aviation industry maintain its competitive advantage in world aviation.

What I'm suggesting is that the aviation industry can apply a concept which matches their bottom line to our bottom line: safety and security.

The details of my proposal are still being worked out. We will publish guidance materials to define and describe our program. This summer, the agency will conduct training seminars to provide guidance for our inspectors. And, by this fall, we will have model programs available. These model programs can be tailored to specific needs, regardless of an organization's size or complexity.

I want to make it clear that compliance with safety and security regulations is what we want to achieve. The initiative I announced today is designed to renew and strengthen the government/industry partnership that has historically promoted this objective.

One area in particular where we need to do a better job of working together is the detection of pilots who violate alcohol- and drug-related regulations. We simply cannot tolerate or protect pilots who abuse drugs and alcohol. They are jeopardizing public safety and public confidence in aviation and we must remove them from the cockpit.

Recently, I initiated a six-point plan aimed at making FAA inspectors more proficient at detecting violations of FAA's alcohol- and drug-related regulations. In addition, today, I am sending a letter to the CEOs of all "major" and "national" airlines, as well as the CEOs of Washington organizations representing the airlines, reminding them of their duty to join in this effort.

Finally, we are moving ahead with rulemaking action that would allow FAA to deny application or suspend or revoke an airman's certificate for certain alcohol- or drug-related motor vehicle offenses.

This proposed rule will supplement, not replace, current stringent regulations governing alcohol and drug use by crew members. It will give us another important tool to help rid aviation of a threat to safety that we cannot ignore.

All of us here today understand that U.S. aviation is the safest in the world. We can take pride in this record. But, in our quest for perfection there is always room for improvement. That's the whole idea behind the voluntary Internal Evaluation Program, and the reason we are inaugurating this new incentive.

I will be monitoring this program very closely, and I won't hesitate to exercise my statutory responsibility to make whatever changes I feel are necessary to assure that compliance, safety, and security are being served well.

Make no mistake, our FAA inspectors will continue to conduct regular inspections and surveillance. And they will still expect and demand 100 percent compliance with the rules and regulations. The only difference is that this objective, in our judgment, will be better achieved by a cooperative effort. My message to the industry is this: I'm holding out my hand to you. Take it and we can move out together on the path towards full compliance and improved safety.

It's simple. Catch an inadvertent compliance error. Correct it. Report it promptly. Put a permanent fix in place. You win, we win, but most importantly, the public wins!

I look forward to working with the industry and with all of you in this new spirit, this new partnership for safety. Most of all, I look forward to the benefits that will accrue to the flying public. As Pogo might have said had he worked for the FAA: We met the beneficiaries, and they are all of us.

Thank you.

February 16, 1983

TO: John Doster

SUBJECT: FAR 135.261 - Flight and Duty Time Limitations

The essence of this regulation is to ensure a reasonable amount of safety for the passenger by ensuring a reasonable and adequate amount of rest for the flight crew.

Barring the strict letter of this regulation, even if the operator and flight crew take reasonable care, there will be times when an infraction of this rule will happen. For us to be so narrow minded as to cause the operator and flight crews to constantly dwell on this subject is, in fact, negating safety. The best rule of thumb to use is for the operator and flight crew to look at the last 24 hours and determine if within that time they have had ten hours of consecutive rest. Basic example: If I am going to fly four hours starting at twelve noon, add the four hours to the twelve and come up with 4:00 p.m.; go back to 4:00 p.m. the preceding day and if you have had ten hours of consecutive rest, go fly. If not, do not fly until you are legal. If due to an unforeseen or unplanned occurrence on the part of the operator or flight crew and the additional down time is not excessive or unreasonable, note it and continue your flight.

When we have flight crews spending an unusual amount of energy worrying about us taking their license or fining them instead of flying the aircraft, we have defeated our most important task, that of ensuring the safe and expeditious transportation of passengers in air commerce.

JAMES W. RYAN
Operations Inspector

ATTACHMENT 4

AFFIDAVIT OF
SUSAN B. JOLLIE

City of Washington)
) SS:
District of Columbia)

I, Susan B. Jollie, being duly sworn, depose and say:

1. I am a partner in the law firm of Galland, Kharasch, Morse & Garfinkle, P.C. of Washington, D.C. Our firm represents Earl Holtz and Northeast Jet Company, of which Mr. Holtz is Chairman of the Board.

2. On June 14, 1990, a telephone conversation was initiated by Mark Kahan, also a partner of the firm, and me to John Doster, a recently-retired Manager of the Flight Standards District Office of the Federal Aviation Administration in Allentown, Pennsylvania. Earl Holtz was in the room with Mark Kahan and me, and the telephone call was handled by speaker phone.

3. At the start of the conversation, Earl Holtz indicated that his attorneys wished to discuss the allegation that he had offered John Doster a job at Northest Jet Company.

4. John Doster responded that there was "nothing serious" in this. He said he would not have wanted to work for Earl Holtz. John Doster suggested that there was a misunderstanding which arose because Bill Sapp [phonetical spelling] told everyone that "Doster was going to be their boss." This became a joke because, as John Doster recalled during this telephone conversation, he had told

Earl Holtz that all he would do for him after retiring from the FAA would be to "cut Earl Holtz's lawn."

5. John Doster said that Earl Holtz knew he would not take a job at Northeast Jet, even if it were offered. Earl Holtz could not have paid him the salary he was making as a top grade GS-15. John Doster said he would not have wanted to leave because he had accumulated sick leave and accrued vacation time worth $150,000.

6. John Doster said that employment at Northeast Jet would not appeal to him because then there would be two bosses at the company, and that situation would not work beyond a few weeks.

7. John Doster said that if the subject of a job as vice president of Northeast Jet Company had come up, as has been reported, it had arisen in the context of a casual conversation when Earl Holtz talked about potential expansion of Northeast Jet Company. John Doster said he did not regard this as a serious comment, and his response would have been consistent with the standing joke that he would serve as vice president for mowing Earl Holtz's lawn.

8. John Doster repeatedly observed during our conversation that the joking conversation had been taken out of context and that the FAA took much of this too seriously. He said he believes that

these "stories" were coming from "people talking because of the immunity" granted by the FAA investigators.

Further affiant sayeth not.

Susan B. Jollie

Sworn and subscribed to before me
this 18th day of June, 1990

Notary Public

My commission expires: 11-30-93

Attachment-5

February 16, 1983

TO: John Doster

SUBJECT: FAR 135.261 - Flight and Duty Time Limitations

The essence of this regulation is to ensure a reasonable amount of safety for the passenger by ensuring a reasonable and adequate amount of rest for the flight crew.

Barring the strict letter of this regulation, even if the operator and flight crew take reasonable care, there will be times when an infraction of this rule will happen. For us to be so narrow minded as to cause the operator and flight crews to constantly dwell on this subject is, in fact, negating safety. The best rule of thumb to use is for the operator and flight crew to look at the last 24 hours and determine if within that time they have had ten hours of consecutive rest. Basic example: If I am going to fly four hours starting at twelve noon, add the four hours to the twelve and come up with 4:00 p.m.; go back to 4:00 p.m. the preceding day and if you have had ten hours of consecutive rest, go fly. If not, do not fly until you are legal. If due to an unforeseen or unplanned occurrence on the part of the operator or flight crew and the additioanl down time is not excessive or unreasonable, note it and continue your flight.

When we have flight crews spending an unusual amount of energy worrying about us taking their license or fining them instead of flying the aircraft, we have defeated our most important task, that of ensuring the safe and expeditious transportation of passengers in air commerce.

JAMES W. RYAN
Operations Inspector

Attachment-6

ROGER ALAN MAYER
178 Sleepy Hollow Road
Bloomingdale, New Jersey 07403
(201) 492-0351

CAREER OBJECTIVE: Flight Officer

FLIGHT TIME:

Total	1560		Cross-Country	500
Pilot in Command	1360	1360	Multi-Engine	530
Instrument	200		Turbine	110

CERTIFICATES:
Commercial Pilot with Instrument Rating
Single and Multi-Engine Land.
Certified Flight Instructor/Airplane Single Engine Land.
Instrument Airplane.
FAA Class 1 Medical Certificate, No Restrictions.

EDUCATION:

B.S. in Aviation Management/Flight Technology
Florida Institute of Technology
Melbourne, Florida 32901

A.S. Flight Technology (May 1985)
Mercer County College
1200 Old Trenton Road
P.O. Box B
Trenton, NJ 08690

EMPLOYMENT:

Flight Instructor (Aug. 1986 - Present)
Melbourne Aviation, Inc.
Melbourne, FL 32901

Flight and ground instruction given to private, instrument, commercial, and flight instructor students.

Co-Pilot (July 1986 - Sept. 1987)
King Air 200, BE90
Vic Osman Chevrolet
Melbourne, FL 32901

Flight Instructor/Pilot (May 1985 - September 1985)
Aero Venture, Inc.
Trenton-Robbinsville, NJ
Trenton-Robbinsville Airport

Flight and ground instruction given to private, instrument and commercial students.
Second in command Part 135 Charters.

Related Employment: Ground Support Technician for Gannett Flight Department on Gulfstream III's and HS 125's. (July 1986 - January 1987).

PERSONAL DATA: Age 22
Marital Status: Single
Interests: fishing, reading, traveling, tennis

AVAILABILITY: Immediately - Willing to relocate.

REFERENCES: Furnished on request.

FLIGHT TRAINING RECORD

Northeast Jet Form FTR-001 (Flight Training Record) shall be utilized to record Flight Crewmember Initial (I), Transition (T), Upgrade (U), Recurrent (R), Difference (D) and Lower Minima (LM) Flight Training.

Crewmember Name: ROGER MAYER — Domicile: Allentown, PA
Type Ratings: _____ — License Type & Number: COMM 1444278

Training Hours

FLT#	DATE	TRN	TA/C	INSTRUCTOR	PIC	SIC	OBSERVED	INST	SIM'D	NIGHT	BLOCK
1.	1/30/83	I	35	[illegible]	-:-	4.7	-:-	-:-	-:-	-:-	4.7
2.	2/7/83	I	35	[illegible]	-:-	6.6	-:-	-:-	-:-	6.6	6.6
3.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
4.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
5.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
6.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
7.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
8.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
9.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
10.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
11.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
12.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
13.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
14.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
15.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
16.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
17.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
18.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
19.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
20.	__/__/__	___	___	_____	-:-	-:-	-:-	-:-	-:-	-:-	-:-
		TOTAL HOURS			___:-	___:-	___:-	___:-	___:-	___:-	___:-

GRADING LEGEND

U - Unsatisfactory: Maneuver or function is unsatisfactory for the training phase. Written comment will be made on the training form as to the exact nature of the problem area.

I - Incomplete: Indicates the trainee is below the average level of proficiency for a specific maneuver or function. This is not an unsatisfactory grade but does indicate room for improvement. Comments will be made on the training form.

S - Satisfactory: Trainee has demonstrated the maneuver or function at the necessary level of proficiency required. His/her ability to retain instruction is satisfactory.

NORTHEAST JET COMPANY FORM

CLIMB PERFORMANCE
TWO ENGINE

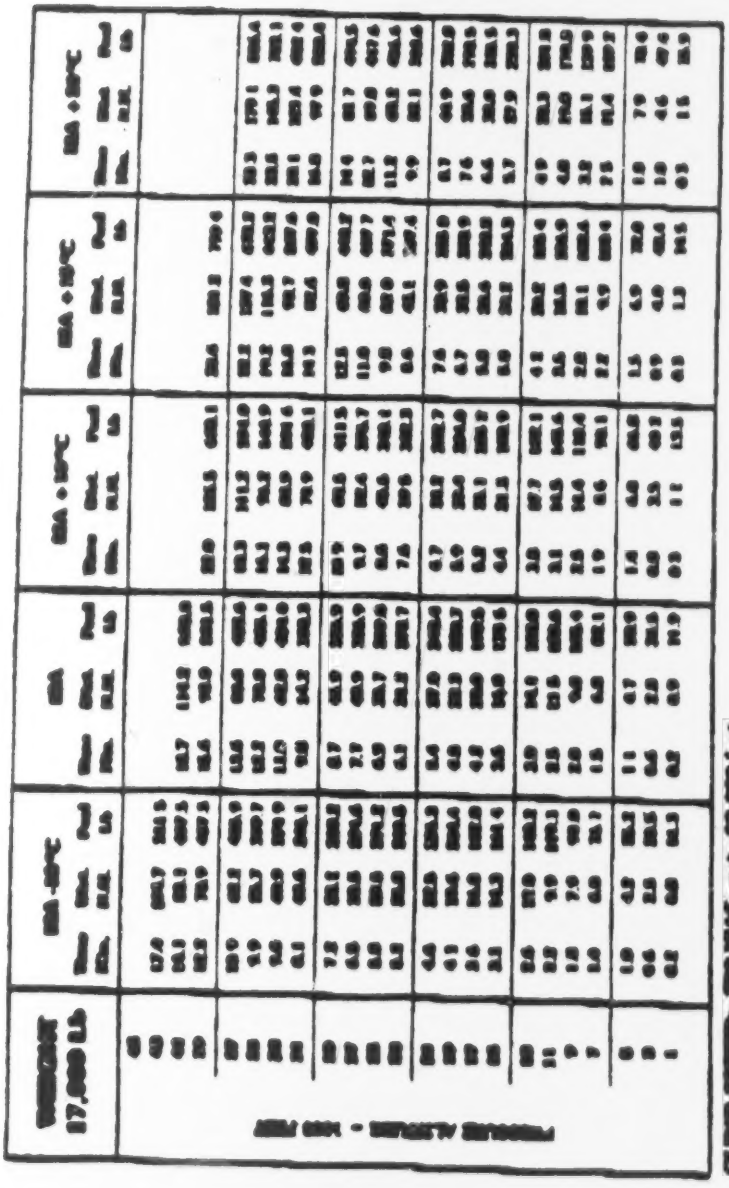


Figure 4-17
(Sheet 8 of 10)

EXAMPLE:

1	Altitude	30,800 FT
2	Weight	14,000 LB
3	Buffet Onset	
	• Calibrated Mach	0.49 Mj
	• Indicated Airspeed	182 KIAS

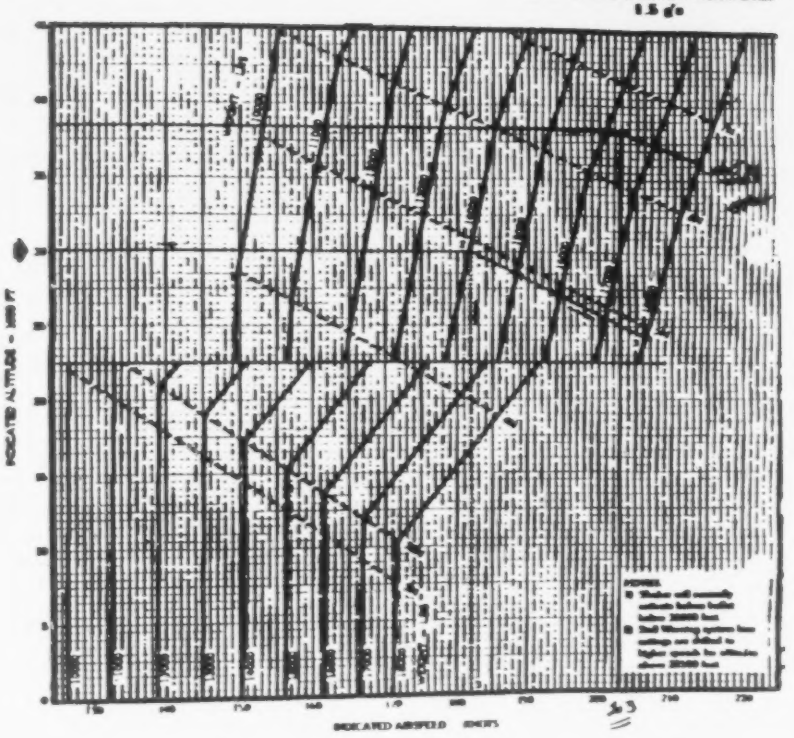


Figure 5-20

FAA APPROVED 4-30-76
REISSUED 2-25-81

Attachment -7

FINNAVIATION OY

PL 29 · P.O. Box 29
01601 HELSINKI · VANTAA · LENTO FINLAND

LASKU
INVOICE No. 21687

Käsittelijä · Handled by
US/us

Päivämäärä · Date
18.7.1986

Asiakasnumero · Customer's no.

Laskutusosoite · Address of invoice

North East Jet Company
Abe Airport Hg 4
Box 6060
Allen Town P.A.
18001 USA

Toimitusosoite · Address of delivery

Tilausnumero · Your order

Maksuehto · Terms of payment
14 d. netto

Viivästyskorko · Interest for default
18 %

Lähetystapa · Conveyance

Lähetysmaksu · Shipping cost

Business Flight Helsinki-Luxemburg-London-Luxemburg-
Helsinki 11 jul 86 with OH KNE

FIM 72.000,-

14631.60

Tilinumero
Telephone
SFI 123
SFI 456
SFI 789 Telex

Telex
Telegram
Postadress

Bank
Postgiro
VAT Group Treasury

4'd

DF [illegible] 02:21 88. 01 Fax

Gates Learjet Corporation

SERVICE NEWS LETTER 49

GATES LEARJET CORPORATION
P.O. BOX 7707
WICHITA, KANSAS 67277

MAY 1980

AIRPLANE EMERGENCY PROCEDURES

All Gates Learjet Corporation Airplane Flight Manuals are periodically reviewed and revised where necessary. Some of the procedures relating to potential overspeed conditions have been revised during the past year. Review the Emergency Procedures which apply to the particular Model you operate — some procedures vary from Model to Model because of systems changes, etc. This is especially important if you operate more than one Model Learjet. We urge that procedures relating to Emergency Descent, Inadvertently Exceeding V_{mo}/M_{mo}, Pitch Axis Malfunction, and Normal or Primary Pitch Trim System Runaway be carefully reviewed now and periodically, and be understood thoroughly.

1. **Emergency Descent**

   Note that in the Emergency Descent Procedures, landing gear extension is prescribed at any speed below that of about 265 knots, (reference the Airplane Flight Manual) except Model 28/29, where the procedure is modified due to different aerodynamics. In training situations, the gear is not extended at speeds above 200 knots only because of a possibility of gear door damage. In the actual emergency situation that consideration is no longer a factor. Use of the gear and spoilers in an Emergency Descent increases drag which increases descent rate.

2. **Inadvertently Exceeding V_{mo}/M_{mo}**

   Obviously in situations where the attitude of the aircraft is significantly nose down, the possibility exists of exceeding V_{mo}/M_{mo} and, elementary as it may sound, if the thrust levers are not retarded early in the course of the situation, the airplane accelerates very rapidly into the overspeed area. The procedures in the AFM tell how to handle a particular problem, such as the Pitch Axis Malfunction or Emergency Descent, but exceeding the red line speed during the execution of the procedure because of preoccupation with the problem will compound the seriousness of the situation. At Mach No.'s in excess of M_{mo}, aileron activity could be encountered, and this activity increases in amplitude as Mach No. is increased. This activity has been described as aileron "buzz" or aileron "snatch" and is a random frequency and amplitude movement of the ailerons and control wheel. Pulling "g's" in that regime of flight increases the aileron activity, so one must not pull abruptly on the elevator control to slow the aircraft, but must apply a steady force of the magnitude necessary to produce as much "g" force as possible without losing roll control. Exceeding V_{mo} in the lower Mach No. regime produces higher recovery elevator control forces, but no aileron activity. Another phenomenon which occurs at Mach No.'s beyond the red line is "Mach Tuck". This phenomenon is caused by aft movement of the wing center of pressure and results in a nose-down pitching moment. The stick puller is provided as a device to ensure no excursion beyond M_{mo}. It should never be turned off during normal operation of the aircraft. If, for any reason, there is a malfunction that requires turning off the stick puller, the aircraft should be operated at speeds well below M_{mo} as prescribed in the applicable Flight Manual procedures. As in any airplane, speeds beyond the red line must be avoided by maintaining the desired attitude with appropriate flight controls and by decreasing thrust while executing the prescribed Emergency Procedures.

(Continued)

QUALITY CONTROL CHECK

AIRPLANE EMERGENCY PROCEDURES (Continued)

NOTE: IF M_{MO} OR V_{MO} IS INADVERTENTLY EXCEEDED TO THE POINT WHERE THE AIRPLANE SEEMS TO BE OUT OF CONTROL, LOWER THE LANDING GEAR. The landing gear doors may be lost or damaged, but the main concern is to facilitate recovery by using the extended gear to slow the forward speed of the airplane. Such a procedure has been successful in past incidents involving various types of high performance aircraft and was used recently to effect recovery of an "out of control" airliner.

3. **Spoilers**

The use of the spoilers is **not** prescribed in Pitch Axis Malfunction and Runaway Trim Emergency Procedures. The reason is that the nose down pitch change which the spoilers produce may aggravate pitch down problems.

USE OF CHECKLIST

We use Flight Manual (AFM) temporary and permanent revisions to provide you with timely operating information. The red and blue Emergency and Normal Checklist booklet which you may be using on a day-to-day basis is not revised as frequently as the AFM. The AFM takes precedence, so you should revise your checklists accordingly by writing notes in the margins or by whatever method you choose. Note that the procedures for checking individual systems are not spelled out in this booklet. It is assumed that the systems are "checked" according to the Airplane Flight Manual. Consider, for example, the Pitch Trim Systems. The abbreviated red/blue checklist booklet states "Emergency Pitch Trim ---- checked," and "Normal Trim ---- checked and set," as preflight check items. The AFM Normal Pitch Trim System Runaway Procedures have been written with the assumption that the Normal and Emergency trim systems were operating properly at the start of the flight. The prescribed preflight check of the normal and emergency pitch trim systems, including the selector switch, the trim arm switches, and pilot's authority relay, is a necessary step to ensure that there are no latent faults in the systems which could negate the dual-failure system design concept. A faulty trim arm switch, for instance, could indicate an electrical short in the system and should be repaired before flight. The trim systems are used here as an example of the assumed use of the checklist booklet. The same philosophy applies to other systems on the airplane.

GATES LEARJET CORPORATION FLIGHT TRAINING MANUAL

The Gates Learjet Corporation Flight Training Manual (which has been completely revised) used by our Flight Training Department contains the methods used for Emergency Procedures training and points out some of the hazards involved in those training situations. The Manual is distributed to all pilots who receive their training from Gates Learjet Corporation and FlightSafety International. The Manual is available to owner operators upon request through the Technical Data Control Center here at the factory.

NBAA QUESTIONNAIRE

BEST COPY AVAILABLE

Enclosed in this Newsletter is an NBAA Learjet Maintenance and Operations Questionnaire for this year's NBAA Meeting in Kansas City, Missouri.

Learjet operators are requested to fill out the questionnaire and mail it at their convenience. Your input is encouraged so that we may provide you with an informative and beneficial session.

RUDDER PEDALS

We recently issued a temporary Flight Manual Change for all models regarding the flight controls check required before each flight. We've all probably been performing a similar check in every airplane we've flown from day one. It is called to your attention now because over the years the styles in men's footwear have changed, along with hair styles and other accessory styles. One can no longer assume that the long-haired, purse-carrying, high-heeled person is a female! Or that the male wears the pants! Nor can one assume that when a male and female are approaching an airplane, the male is the driver!

The important thing is that no matter what your sex or what type of footwear you choose, don't fall into the habit of running a fast incomplete controls check before each flight. Be sure your seat is adjusted so that you can move the rudder pedals from stop to stop. Be sure that your feet are placed upon the pedals the same way they are when you actually control the airplane, both in flight and on the ground. Approach each flight with the same caution and thoroughness as you would a training flight when you know single-engine work is planned and you're going to need all the rudder travel available. Be sure your high-heeled shoes, or whatever type of shoes you wear, do not impair the movement of the rudder pedals.

FC-200 AUTOPILOT PITCH BUMP

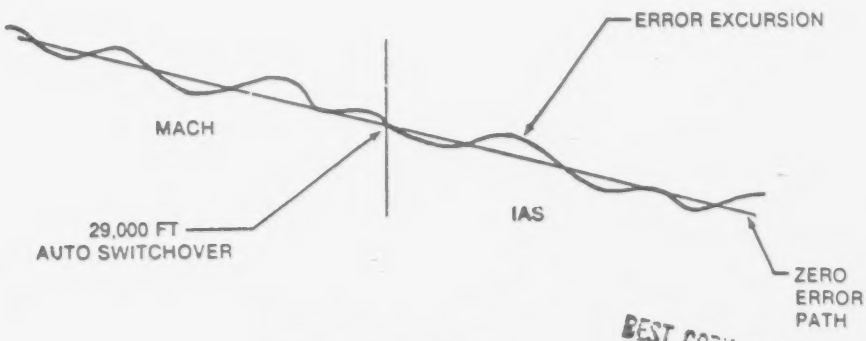
Some aircraft equipped with the FC-200 autopilot experience a pitch "bump" when the autopilot automatically switches from IAS to MACH or MACH to IAS. The pitch bump is caused by the IAS or MACH error (deviation signal) that exists at the switchover point. If the error signal is zero, there will be no noticeable bump. If there is an error, the bump severity will be proportional to the error excursion. The figure below illustrates what happens.

Some service organizations have been replacing the autopilot air data sensor (ADS) to solve this problem. Randomly appearing bumps and/or severity thereof will not normally be eliminated by replacing the ADS. As shown in the illustration, it is apparent that the bump is variable in amplitude and unpredictable. It may appear one time and not the next, depending on the error signal amplitude.

The tightness with which the autopilot tracks the error signal will have more effect than the air data sensor, thus the autopilot pitch axis should be checked. This should include:

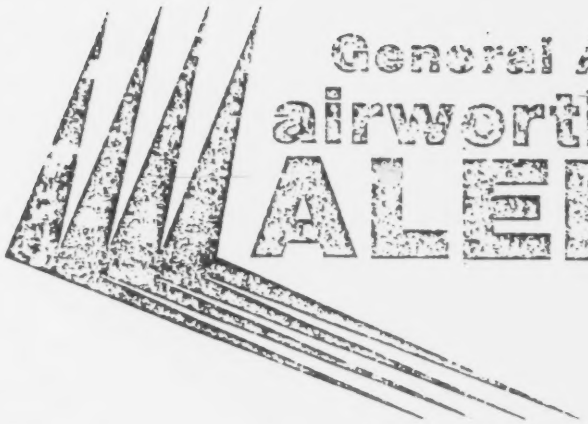
1. Pitch trim performance.
2. Pitch A/P computer.
3. Pitch actuator torque.
4. Check for excessive elevator friction that would counteract the pitch actuator torque.

If a severe bump suddenly begins appearing every time at switchover, then the air data sensor is probably defective and should be checked.



AUTOPILOT PITCH BUMP

BEST COPY AVAILABLE



General Aviation airworthiness ALERTS

SPECIAL ISSUE

UNAPPROVED ALTERATIONS SPEED WARNING SYSTEMS

AIR CARRIER
&
GENERAL AVIATION

U.S. DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration
FLIGHT STANDARDS NATIONAL FIELD OFFICE

1. Introduction. The purpose of this special alert is to provide safety information and recommend action to preclude possible airworthiness problems associated with unapproved modifications to turbojet aircraft where unapproved modifications have been found in the speed warning system. This alert identifies a specific type of aircraft where unapproved modifications have been found in the speed warning systems. It is also intended to bring the matter to the attention of all owners/operators of turbojet aircraft and aid in precluding problems that are associated with unapproved modifications to speed warning systems.

2. Background. During an accident investigation of Learjet, an unapproved modification to the speed warning system was found. Further investigation revealed that many aircraft of this type have a switch installed in the speed warning horn system which can mute the warning horn for air speed or other warning devices connected to the same circuit. The switches will not always be of the same type or located in the area identified. They could be located on the cockpit floor, in glove compartments, or in map cases. Unmarked circuit breakers are thought to be another method used to interrupt speed warning systems.

3. Discussion. The switch has been found mounted under the lower left instrument panel out of view from the captain's flight position and is not labeled as to function or position (on/off). Depending on how the switch is installed, any or all of the following warning systems can be affected:

- mach and air speed
- landing gear
- cabin altitude alert
- stick shaker and pusher

All flight crews are not aware of the unauthorized switch or its function and could be operating without knowledge that certain warning systems are inoperative. Under those conditions, the hazards to safe flight are obvious.

Maintenance personnel report that the unapproved switch installations have caused difficulty in analyzing warning system malfunctions because they are hidden, unmarked, and not recorded in the aircraft maintenance records or included on aircraft system diagrams.

4. Regulation Status. Installations of this type are unauthorized and do not meet the airworthiness requirements for aircraft certification and operation of an aircraft with this switch installed are not in accordance with the FAA Approved Airplane Flight Manual.

5. Recommendations.

(1) Owners/operators of turbojet aircraft should have authorized personnel inspect their aircraft and determine that no unapproved switch installations exist.

(2) When found, the owner/operator should have the switch removed and assure that the speed warning horn and other associated warning systems conform as required and that proper entries have been made in the aircraft maintenance records.

QUALITY CONTROL CHECK

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
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QUALITY CONTROL CHECK 00716

were in a full skid condition). This precludes the possibility of touching down on the next landing with brakes applied inadvertently. Further, at the moment of touchdown, the squat switches initiate a requirement for a 25-knot wheel speed or a 1 to 2-second delay to allow for wheel spinup, thus enabling the control box to sense realistic wheel speeds before normal braking can begin.

If the brakes are to be applied in flight to break up suspected accumulations of ice on the brakes, the ANTISKID switch must first be positioned to OFF. Position the switch to ON prior to landing.

At low taxi speeds (wheel speed below 150 rpm, 8-10 knots), the antiskid system is inoperative. The system is automatically disconnected when the parking brakes are set; however, the red ANTI-SKID GEN lights will not illuminate.

Four red ANTI-SKID GEN lights monitor circuitry from each wheel speed transducer and will individually illuminate if a fault is detected. Cycling the ANTISKID switch to OFF then back to ON may clear the fault. All four lights illuminate if power to the control box is lost or if the ANTISKID switch is off.

EMERGENCY BRAKES

Pneumatic emergency brakes are provided for use in the event of normal brake system failure. Antiskid protection, differential braking, and parking brakes are *not* available while using the emergency brakes.

To apply brakes with the emergency system, the EMER BRAKE handle must be pulled out of its recess (Figure 14-11) and pressed downward. This meters pressure from the emergency air bottle through four shuttle valves to the brake assemblies in proportion to handle movement. Releasing the handle stops flow from the bottle and allows applied air pressure to be vented overboard, releasing the brakes.

Landing with a complete hydraulic failure (flaps, spoilers, and antiskid inoperative) will approximately double the normal landing distance.

PARKING BRAKES

Normal hydraulic system pressure from either engine-driven pump or the auxiliary pump can be used to set the parking brakes. Pulling the PARKING BRAKE handle on the center pedestal mechanically closes both parking brake valves (Figure 14-11). The closed valves function as one-way check valves, allowing pressure from the pilot or copilot brake valves to be trapped in the brake assemblies.

To set the parking brakes, pedal pressure must be applied and the PARKING BRAKE handle pulled out (but not necessarily in that order). Setting the parking brake opens the antiskid disconnect switch (Figure 14-11) to disconnect the antiskid system and prevent inadvertent loss of brake pressure.

To release the parking brakes, the PARKING BRAKE handle must be pushed in all the way to the stop.

NOTE

If the PARKING BRAKE handle is not pushed in to the stop, the parking brakes may be released but the antiskid disconnect switch may not actuate to enable the antiskid system. The ANTI-SKID GEN lights will not illuminate, and subsequent heavy braking may result in wheel skids.

Airplanes SNs 35-626, 627, 630 and subsequent, 36-056, and 059 and subsequent have an additional PARK BRAKE light just above the ANTI-SKID GEN lights. The PARK BRAKE light will illuminate if the parking brake handle is not in the completely forward (released) position.

NOSEWHEEL STEERING

GENERAL

The electrically actuated nosewheel steering system has variable authority, as determined by

signals from the left inboard and both right wheel speed transducers. System components also include a rudder pedal follow-up, a computer-amplifier, and a DC steering actuator motor. AC and DC power is supplied through the NOSE STEER circuit breakers on the left AC and left main buses, respectively.

The steering actuator, mounted on top of the nose strut, steers the nosewheel through a gearbox and an electrical clutch. The clutch engages whenever DC power is applied to the airplane electrical system, allowing the steering actuator to function as a shimmy damper, even with steering disengaged. If DC power is lost or the DC NOSE STEER circuit breaker is out, the nosewheel is free to swivel.

Prior to towing, electrical power must be removed from the airplane or the 28-VDC NOSE STEER circuit breaker (left main bus) must be pulled to prevent damage to the system. It is possible to misalign the nosewheel more than 90° from normal during towing; therefore, the nose gear uplock roller on the nose gear strut must be pointing forward prior to flight.

Steering authority varies from a maximum of 45° either side of center at speeds below 10 knots and decreases as ground speed increases. At the maximum steering speed of 45 knots, authority has been reduced to approximately 8°. The steering system is inoperative in flight.

OPERATION

With the squat switches in the ground mode, nosewheel steering can be engaged by momentarily depressing the STEER LOCK switch or by depressing and holding the control wheel master switch (MSW) on either control wheel (Figure 14-12). STEER LOCK is disengaged by momentarily depressing either control wheel master switch.

When steering engages, the green STEER ON annunciator illuminates. A rudder pedal follow-up provides the displacement and directional signals modified by the computer-amplifier input from the wheel speed transducers. The computer-amplifier drives the steering actuator in the appropriate direction until it is stopped by a signal from a follow-up located in the drive gearbox.

In the event the steering system is inoperative, differential power and braking can be used to taxi the airplane. Pulling the DC NOSE STEER circuit breaker on the left main bus will disengage the clutch, allowing the nosewheel to swivel freely.

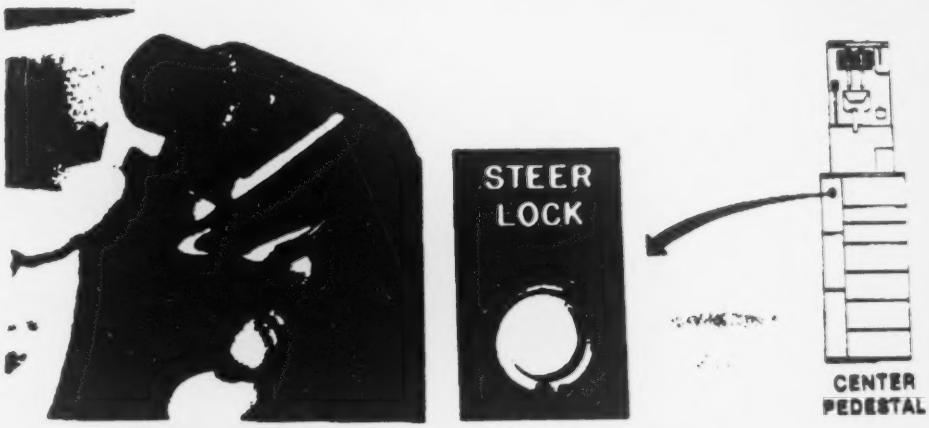

Figure 14-12. Nosewheel Steering System

Since variable-authority steering is dependent upon wheel speed transducer signals, steering should not be used above 10 knots if any two of the following three ANTI-SKID GEN lights are illuminated: two inboard and one right outboard.

LIMITATIONS

LANDING GEAR

Maximum Landing Gear Operating Speed (V_{LO})

V_{LO} is the maximum speed at which the landing gear can be safely extended or retracted. On airplanes with the FC 200 AFCS installed, V_{LO} is 202 KIAS. On airplanes with the FC 530 AFCS installed, V_{LO} is 200 KIAS.

V_{LE} is the maximum speed at which the airplane can be safely flown with the landing gear extended. On airplanes with the FC 200 AFCS installed, V_{LE} is 265 KIAS. On airplanes with the FC 530 AFCS installed, V_{LE} is 260 KIAS.

Do not operate the airplane if water and/or slush accumulation on the runway exceeds 3/4 inch.

NOSEWHEEL STEERING

Maximum nosewheel steering speed is 45 knots ground speed.

With any two of the right three ANTI-SKID GEN lights illuminated, nosewheel steering should not be engaged at ground speeds above 10 knots.

NOTE

During moderate to heavy braking action on patchy snow or ice, avoid use of nosewheel steering above 10 knots.

PRIVATE JET SERVICES MINIMUM EQUIPMENT LIST

AIRCRAFT: LEARJET MODEL 35 SERIAL#041 W/CENTURY III	REVISION NO: ORIGINAL DATE: 04/26/88	PAGE 32-1

SYSTEM & SEQUENCE NUMBERS / ITEM	2. NUMBER INSTALLED	3. NUMBER REQUIRED FOR DISPATCH	4. REMARKS OR EXCEPTIONS
32. LANDING GEAR			
1. Anti-Skid System	1	0	*(M)(O)May be inoperative provided: a) Operations procedures do not depend on use of anti-skid system, and b) Maintenance procedures secure or deactivate anti-skid system as necessary to ensure no interference with the brake system. NOTE: Reference AFM for limitations and performance with Anti-Skid inoperative. (M) Ref. proceedure in Apndx A. (O) Ref. proceedure in Apndx A. The cockpit must be placarded. (Use 32-1)

APPROVED

DATE APR 18 1988

INSPECTION AUTHORITY

SUMMARY OF TESTIMONY BEFORE THE SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT

EARL M. HOLTZ
PRIVATE JET SERVICES

June 19, 1990

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me to testify. I understand that the Subcommittee on Investigations and Oversight examines particular cases to learn about how government agencies operate -- in this hearing, you are focusing on the Federal Aviation Administration's enforcement and certification policies. You apparently chose to study Northeast Jet because of the shocking news stories published when the FAA issued an emergency Order of Revocation.

Many of the allegations in the FAA Order were based on complaints of disgruntled employees and were completely or partially incorrect, and greatly exaggerated. The company never had the chance to respond to these charges before the FAA summarily revoked Northeast Jet's certificate.

I have accepted your invitation to testify so that you will know all of the facts developed in the course of the company's own intense investigation of

the FAA's preliminary findings. My testimony is intended to provide explanations, not a legal defense. The certificate holder -- Northeast Jet -- did not elect to appeal these findings in a proceeding before the National Transportation Safety Board, which would have decided factual disputes and the validity of various legal defenses.

Following the revocation, I did much soul searching and concluded that there were problems at Northeast Jet which warranted correction. The best course for me and the company was to look forward, not backward, and to work with the FAA constructively rather than exercise my legal rights of appeal. After careful examination, however, it became clear that the failures identified by the FAA could frequently be attributed to two causes: (1) the advice the company received from the FAA Flight Standards District Office and (2) deficiencies in performance by those managerial employees with direct responsibility to insure compliance with the Federal Aviation Regulations.

I accept the fact that the certificate holder is fully responsible for individual employees' violations of the Federal Aviation Regulations, and therefore must be constantly vigilant in overseeing daily operations. However, I want to explain to you how the FAA can correctly find that the

owner of a company that has been cited for violations of the Federal Aviation Regulations is capable of operating safely after starting over with different personnel and more stringent voluntary compliance procedures.

In the case of Northeast Jet, the FAA entered an Order of Revocation based on an ex parte investigation. Because the Order was issued on an "emergency" basis, it took effect immediately. Under these procedures, the only due process is after the fact. Northeast Jet's decision not to appeal was a practical decision based on an assessment of the costs and benefits of pursuing costly and time-consuming administrative litigation.

The FAA required us to wait at least one year before it would even process an application for a new certificate. The company that was certified as Private Jet Services is not the same organization as Northeast Jet. The process of rehabilitation was extremely rigorous. During this period, the company endured enormous losses. I was ultimately required to sell not only all of our airplanes, but also our hangar, maintenance facilities, and spare parts.

You may believe that this sanction is justified. But you should also know that the only charges made against Earl Holtz personally involved the failure of a check pilot to submit a written record to substantiate the fact that

I had performed check rides for aircraft in which I was rated. Neither the company nor I derived any financial benefit, because the training actually had been completed. I have accepted overall responsibility for the operation of Northeast Jet and have paid a high price.

The FAA Order revoked the certificate of a company, not an individual. Those directly responsible for alleged safety violations were individuals with direct managerial responsibility for operations and maintenance, and individual pilots. In order to support its emergency certificate revocation proceeding, the FAA accepted -- in my view uncritically -- the claims of some individuals to the effect that Earl Holtz created an atmosphere or pressures at Northeast Jet that somehow "forced" individuals to violate Federal Aviation Regulations, or to engage in activities which they presumably knew would threaten their personal safety.

The FAA procedures unfortunately created an incentive for individuals whose primary responsibility is to oversee compliance with FAA safety regulations to blame someone else -- in this case, the company or its owner -- in order to avoid FAA action against their individual certificates as airmen. I am disappointed that individuals whose chief responsibilities were to insure

safety were able to escape personal liability by claiming that they were motivated by some vague, unwritten "company policy."

A company may be legally liable for employees' actions, or a failure to adequately supervise operations. But, it is unfair to conclude that Earl Holtz, or any company in which I am involved, are likewise tainted by corporate failings.

The process of re-certifying Northeast Jet to operate as a fundamentally new airline -- Private Jet Services -- was demanding. First, there were a number of candid, informal conferences between the FAA and Northeast Jet's attorneys. The allegations that formed the basis to the Order of Revocation and the evidence developed in the course of Northeast Jet's own investigation were discussed. My written statement outlines the company's position on these issues. However, both parties focused on identifying the scope and causes of Northeast Jet's problems, rather than quibbling about whether or not specific violations could be proven. I believe that this exchange helped to persuade the FAA that I did not personally violate any Federal Aviation Regulations or mastermind an intentional scheme to undermine FAA regulations, because I did not. If asked to offer recommendations for improvement in FAA enforcement policy, I would

suggest that this process of constructive dialogue begin before, not after, an Emergency Order of Revocation is issued.

Second, Private Jet Services was required to demonstrate in the course of its certification that the causes of the company's nonconformity with FAA regulations were correctable. Since we had relied -- rightly or wrongly -- on local FSDO guidance, I was willing and able to accept the direction of the FAA.

The third important component of the re-certification process was the company's efforts to voluntarily identify and implement audit and procedural safeguards which will assure that problems will not arise in the future. These procedures are designed so that the FAA, as well as the operator, will be able to identify trouble spots more quickly and easily.

It is my sincere hope that once this Subcommittee understands the full story behind the revocation of Northeast Jet and the reincarnation of its successor, Private Jet Services, you will agree that the FAA was not too lenient. The issues in this case -- and probably other cases which you could have chosen to investigate -- are very complicated. The FAA should therefore retain its current discretion to process certificate applications under current regulatory policies.

I am more than willing to answer your questions, although past experience has taught me I should not respond without first consulting the Federal Aviation Regulations, the FAA, and my attorneys. For that reason, they are also here to answer your questions.

STATEMENT OF FREDERICK J. LEONELLI, MANAGER, OPERATIONS BRANCH, FLIGHT STANDARDS DIVISION, EASTERN REGION, FEDERAL AVIATION ADMINISTRATION, BEFORE THE HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, SUBCOMMITTEE ON INVESTIGATION AND OVERSIGHT, REGARDING FAA CERTIFICATION POLICIES. JUNE 19, 1990.

Mr. Chairman and Members of the Subcommittee:

I am Frederick J. Leonelli, Manager of the Operations Branch, Flight Standards Division, for the FAA's Eastern Region. I welcome this opportunity to briefly describe for you our investigation of Northeast Jet.

During early July 1988, we received information alleging that Federal Aviation Regulations (FARs) were being violated by Northeast Jet. A list of the allegations is attached to my prepared statement as Appendix A.

Our initial investigation into these allegations began in early July 1988, and provided sufficient facts to warrant establishing a special inspection team. The special inspection team consisted of a team leader, two operations inspectors, two airworthiness inspectors, one avionics inspector, and an attorney. On August 4, 1988, an Order of Investigation was issued by the Eastern Region Assistant Chief Counsel to facilitate the issuance of subpoenas.

Our investigation disclosed that Northeast Jet was operating in a manner that posed a serious threat to the safety of air commerce. The investigation disclosed that the carrier was not in compliance with the FARs, with violations including falsification of maintenance records, use of unairworthy aircraft, and operation of aircraft with unqualified airmen. A list of the FARs violated is attached to my statement as Appendix B.

The majority of the allegations we received were substantiated by our investigation. We were unable to substantiate, however, the resident alien status of two management personnel and the allegation of an improper flight on April 10, 1988, of a Gulfstream GII.

The results of our investigation resulted in the revocation of Northeast Jet's operating certificate on September 30, 1988.

Mr. Chairman, that completes my prepared statement. I would be pleased to respond to any questions you may have.

Appendix A

NORTHEAST JET ALLEGATIONS RECEIVED IN 1988

1. On or about December 31, 1987, the Director of Operations was advised of an MEL on the gear warning system for LR35A, N289NE, S/N A-289. It is alleged that the gear warning device had not been repaired at the time of a January 12, 1988, late night flight with paying passengers aboard. The aircraft was landing at Coatsville, Pennsylvania, with the faulty warning system. On the final approach, full flaps were selected. The aircraft touched down with gear retracted. The pilot caught the error after the belly scraped. However, he managed to get airborne, flew a landing pattern, extended the landing gear and properly discharged passengers after landing.

   The crew was advised by company dispatch to ferry the aircraft to Allentown without a ferry permit that night, leaving antennas and a belly strobe light on the runway. The flap trailing edges were delaminataed. The co-pilot was alleged to not have a current twelve-month checkride when the incident occurred. It is also alleged that the FAA had filed a violation for a no ferry permit and reached a compromise agreement with Northeast Jet to put the captain in the right seat for one month and be subjected to the company's training program.

2. It has been asserted that Dispatcher and Co-Owner has placed pressure on pilots to land at airports in over-gross weight conditions for the purpose of tankering fuel in order to save money at close-by airports. It is also alleged that she and other management personnel have promoted the action of not seeking landing reservation slots at Washington National on a routine basis.

3. At one point in time, Damin Aviation Corporation managed Jet Star N123CA, S/N 5061, which was operated for one year without a functioning pilot heat light.

   Circa 1987, N123CA was tankering fuel from Ontario, California, to Palm Springs, California, and landed over gross by 6,500 pounds. The aircraft subsequently

developed fuel leaks. It is rumored that Damin or owner Martin Raines has or will take legal action against Northeast Jet as a result. It is also alleged that Jet Star N6NE, S/N 6, was sold to a Barrow Thomas of Dallas, along with N150NE (an unknown type). N6NE is apparently the subject of legal action because of over weight landing while operated by Northeast Jet.

4. Some flight crews allege gross abuses of crew duty time, maintenance, pilot qualifications and operating procedures. For example, the carrier's Director of Operations and the Chief Pilot were alleged to be foreign nationals and did not have resident alien green cards. It is alleged that the Director of Maintenance keeps two sets of maintenance books that the local FSDO supposedly knows about. There are sets of maintenance writeups and avionics writeups kept in his desk under lock and key. Aircraft discrepancies are first entered into the "desk" books and, after repairs are made, are entered into the "public" books. Therefore, pilots are not encouraged to enter malfunction writeups while "on the road."

5. It is alleged that FAR Part 135.295 and 135.341 are violated because there is no initial or recurrent flight attendant training. Allegedly there are no training records of compliance.

6. It was reported to ASI that Northeast Jet had, over the Christmas rush period, contracted with UPS and other cargo carriers for rapid cargo movements. Apparently there was only one cargo net for the entire Northeast Jet fleet, and the Allentown FSDO had written to the carrier about the deficiency.

7. During the week of April 10, 1988, it was determined by Spey (Inc) that a GII, VR-BJQ, S/N 140, had a FOD'ed engine. The aircraft was flown back to Allentown without repair.

8. VR-BJQ has been allegedly operated with passengers by the carrier into Beef Island, 25 nautical miles east of St. Thomas, which is listed on the WAC charts as 3,200 feet in length.

9. Aircraft N158NE was towed with brakes on which caused a pressure bulkhead to be damaged. Aircraft was then sold.

10. Mr. Earl Holtz never had a checkride in the GII.

Appendix B

LIST OF REGULATIONS NORTHEAST JET WAS CHARGED WITH VIOLATING

VIOLATION	FEDERAL AVIATION REGULATION
Flight and Duty Time	135.63(b), 135.267
Chief Pilot	135.293, 135.95
Operations Manual	135.21
Unserviceable Tags	145.35(d)
Airworthiness Release	135.443
Mech Irregularity Reporting	135.65, 135.179(b)(4)
No Ferry Permit	135.179(c)
Test Equipment Calibration Control	135.21(d)
List of Contractors	135.427(a)
Out of Date Calibration Test Equip.	145.47B
Emergency Drills	135.331C
Flight Training Records	135.347(a)
Inadequate Storage	145.35(d)
Repair Station Manual Dist	145.45(f)
Ramp Inspection - Life Vest o/p	135.67, 91.189
Overweight Landings	91.9
No HAZ MAT Training	135.333
Flight Attendants	135.295
Chief Pilot Reg (Bussat)	135.39(b)
Deferred Items Not by MEL	135.413(a)
Mech Reliability Report (No knowledge)	135.415
Mech Interruption Summaries	135.417

STATEMENT OF RICHARD A. MADDAN, MANAGER, ALLENTOWN FLIGHT STANDARDS DISTRICT OFFICE, FEDERAL AVIATION ADMINISTRATION, BEFORE THE HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, SUBCOMMITTEE ON INVESTIGATION AND OVERSIGHT, REGARDING FAA CERTIFICATION POLICIES. JUNE 19, 1990.

Mr. Chairman and Subcommittee Members:

I am Richard A. Maddan, Manager of the FAA Flight Standards District Office, in Allentown, Pennsylvania. I am pleased to appear before you today to outline the process by which Northeast Jet was certificated.

The certification of Northeast Jet was conducted in accordance with the procedures and policies contained in FAA Orders and Regulations. This included a five-phase process consisting of (1) preapplication; (2) formal application; (3) document compliance; (4) demonstration and inspection; and (5) certification.

The preapplication phase included initial contacts with the applicant and responding to the applicant's inquiries. The certification orientation video tape was reviewed and the applicant was provided a copy of FAA Form 8400-6 (Pre-application Statement of Intent or PASI). Once we received the completed PASI from the applicant, it was submitted to the Regional Office to obtain a precertification certificate number. The next step was

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to assign a four employee certification team, which was headed by the certificate program manager. A preapplication meeting was held with the company to set the tone of the actual certification process and to clarify any issues, including compliance with provisions of the Assistant Chief Counsel's June 28, 1989, Letter of Decision, specifically that any future application by Northeast Jet be reviewed to ensure that the following conditions were met:

1. Manual and Procedures must contain safeguards against improper logging of flight and duty times and against maintenance record discrepancies with emphasis on a cross-check that will preclude inadvertent maintenance record discrepancies or intentional falsification of such records.

2. Manual and Procedures must also emphasize the responsibility of individual management and support personnel members to comply with FAA regulations.

3. The application must contain Training Programs which ensure that the present training program-related violations do not reoccur. Besides mandatory and recurrent training of all airmen, Training Programs must

include recurrent training for Management personnel to ensure compliance with relevant FAA operations, maintenance and recordkeeping requirements.

At this meeting, the applicant received certification job aids, a schedule of events, and other documents we felt would be appropriate. The major purpose of the meeting was to ensure that the applicant understood the certification process.

The formal application phase began when we received a formal application letter from Northeast Jet President Richard Kaiser on or about March 21, 1990. Along with the letter, we received a schedule of events, a company general manual, training manuals, an initial compliance statement, and other documentation necessary for certification. After a review of all elements, the next step was to have a formal meeting with the applicant to discuss any omissions or deficiencies noted.

During the document compliance phase, the applicant's manuals and other documents were reviewed and either accepted, approved or rejected, as appropriate. This phase included the indepth review of such things as the operations manual, training manuals, weight

and balance procedures, passenger briefing cards, minimumum equipment list, proving test plans, and a final compliance statement.

In the demonstration and inspection phase, the applicant's facility was inspected and proving tests were conducted. Also, pilot flight checks were accomplished. During this phase, everything was reviewed to see that the applicant met all the requirements for certification.

The certificate and operations specifications were issued during the certification phase. Finally, a ten section certification report was completed and sent to the Regional Office for approval.

Mr. Chairman, that completes my prepared statement. I would be pleased to answer any questions you may have.

My name is Joan Szemplenski. I began working for Northeast Jet in April of 86' and left in October of 87'. For three years prior to that, I was employed as an aircraft charter broker and frequently used Northeast Jets Charter Service. As a broker I arranged many charters to and from La Guardia, JFK and Washington National Airports. These high density airports require by the Federal Aviation Regulations to have an ARO (airport reservation office). The reservations are often difficult to receive and can only be made 48 hours in advance. Occasionally other FAR Part 135 chapter operators would cancel my charter because they could not obtain an ARO or because of flight duty hours. Northeast Jet never canceled my charters for any reason. I learned later as an employee, that they never attempted to receive an ARO and they violated flight duty regulations. I asked one of the Northeast Jet Captains if they ever attempted to get an ARO. He said no and if anyone questioned him he would say that scheduling takes care of it. He was aware of the fact that the office never attempted to make a reservation.

Mr. Holtz did not allow Mr. Kaye to do his job properly. Mr. Holtz ultimately had the final say in the daily operations of the company. If a problem occurred, during the night while I was on call, Ms. Buttenheim would tell me she had to talk to Mr. Holtz and would call me back.

Mr. Holtz crewed the Jet Star; if he was not available Ms. Buttenheim would crew the trip.

Mr. Doster (head of the Allentown FAA) and Mr. Holtz had a very close relationship. When Mr. Doster retired he was to become Northeast Jet President, an office was prepared for him. Mr. Doster stopped by Northeast Jet between 4:30 - 5:00 pm often. These visits seemed to be of a personal nature rather than any type of inspection.

My comments in reference to Northeast Jets letter dated March 6, 1989 to the FAA in New York are as follows:

1- Training

During my employment, over a dozen new hire co-pilots received less than three hours of training prior to flying their first revenue flight. Flight observation time would often be included as actual flight time. Observation time is when the new hire would watch over the shoulder of another new hire as They flew the aircraft.

2- Robert Tamaris

We crewed our Lear Jets by a method called first in - first out. When a pilot returns to Allentown his name would go to the bottom of the pilot roster and the pilot at the top of the list would go out next. If a trip went over duty time, over due aircraft inspections, short runway, or more passengers than seat belts, Mr. Tamaris would be picked out of rotation by Meta Buttenheim or Earl Holtz. If he was flying, another pilot would be selected out of rotation by one of them.

3- Flight and Duty Time

Pilots were coerced to violate flight and duty time regulations. If we had an ASAP charter, a crew,who was on the road and out of duty time were called at their hotel and told to take the charter. If they had a problem with that I would have them speak to Mr. Holtz or Ms. Buttenheim. A pilot was told that if he completed a trip that ran beyond duty time he and his co-pilot would receive a bonus.

4- Weight and Balance

Northeast Jet did not quickly dispose of the Jet Star that had an unusual operating weight. The management contract had expired and the owner of the aircraft elected not to renew the contract.

After briefing a Captain for a pick-up in Philadelphia (an airport we used quite often), I questioned his excessive fuel load. He told me he takes extra fuel to keep peace with the company but dumps the fuel in the air before landing.

5- Cargo Nets

All cargo flights did not originate in Allentown, therefore, the crew would not always have a cargo net on board. One captain who started to refuse charters without a cargo net or an ARO was told by Mr. Holtz to take one month off from flying to decide if he wanted to be a team player. Days later when they realized how short they would be; he was told he was back on flying status.

6- Maintenance

It was common knowledge by the employees that Northeast Jet had two (2) different sets of maintenance records. The Chief of Maintenance once told me he could do nothing about this illegal action.

I witnessed several screaming matches between Mr. Holtz and his Chief of Maintenance about when an aircraft would be in an airworthy condition. Mr. Holtz demanded the aircraft be available for the next scheduled revenue flight.

William D. Telfer
1406 Society Place
Newtown, Pennsylvania 18940
June 19, 1990

Committee on Public Works
and Transportation
U.S. House of Representatives
Room 2165, Rayburn Office Building
Washington, DC 20515

Dear Mr. Chairman:

Mr. Chairman, members of the Committee on Public Works and Transportation, and members of the Subcommittee on Investigations and Oversight, my name is William Telfer and I have been asked here today to present testimony of my first-hand experiences regarding violations of the Federal Aviation Regulations (FAR) and managements general attitude of compliance of the FAR's.

In addition, I will be addressing Northeast Jet Company's (NEJC) letter to the DOT/FAA Eastern Region dated 6 March 1989, regarding the revocationof NEJC's air taxi operating certificate.

I am an Airline Transport Pilot with 6800 hours of flying time. I was employed by NEJC on 20 March 1984 as a first officer. I was upgraded to captain in June 1984 and became the chief pilot in May 1985. I resigned from the company in June 1987.

I would like to first address NEJC's letter to the DOT/FAA because in itself the letter summerizes NJC's operating practices regarding training, individual crew members, flight and duty time, weight and balance, cargo nets, and maintenance.

The letter begins with a statement that Mr. Earl Holtz/ NEJC will be "frank" and "candid" in his discussion regarding the problems at NEJC. I would like to show, through example, specific instances where Mr. Holtz was neither frank or candid. As for the "overstated" accusations made by former employees I believe I can clarify many of these statements.

OVERVIEW

On page 2, third paragraph, a statement is made that "NEJC was a financially sound carrier with an unblemished record of compliance over many years." NEJC did not have any formal violations of FAR's, however, a look at the facts might raise some interesting questions.

On May 18, 1980, a Learjet 25, registration number N125NE lost directional control at 43,000 feet and crashed into the Gulf of Mexico. Although the aircraft was never recovered, extensive investigation was made of the Learjet's performance envelope at high speeds and altitudes. The NTSB report states that that NEJC aircraft were installed with "go fast swithches" with the purpose of defeating the Learjet's installed high speed warning device.

More recent events involve dispatching an aircraft with a nose wheel steering system wired in reverse. This required the pilot to make opposite inputs to receive the desired result. And, dispatching an aircraft with an inoperative/interrmittent gear warning system that led to a gear up contact with the runway resulting in damage to the fuselage and wing flap system.

Although I did not have access to NEJC's accounting ledgers, from an operational point of view, the company was understaffed with administrative assistants which led to a backlog of paperwork. (checkrides, ground school, aircraft documentation). Pilots would often be required to purchase fuel and pay landing fees with their personal credit cards because NEJC's credit had been exceeded. Purchases of required operational items were frequently neglected. Examples of this include international navigation maps, approach plates and cargo nets.

Addressing paragraph 4 on page 2, Mr. holtz was a hands on businessman/owner that gave little or no latitude to his middle management regarding operatingexpenses that required financial involvement. A lthough on paper NEJC's compliance seems exemplary, violations were in fact occuring on a daily basis. An example of this was the company's disregard to aquire high density airport reservations as required by the High Density Airports Rule, FAR 93, subpart K. Aircraft were personally dispatched by Mr. Holtz and Mrs. Meta Buttenheim without obtaining the required reservations.

On page 3, paragraph 1, the statement is made that "Earl Holtz was not personally involved in any intentional violations of the FAR's or any alleged fraudulent activities." As stated earlier, Mr. Mr. Holtz was Director of Operations/ Owner when illegal "go fast switches" were installed in the Learjet. He was aware that ARO's were not obtained, and that no cargo nets were available for pilots.

Page 3, paragraph 2. The ultimate responsibility of the FAR's lies with the certificate holder and its pilots. The FAA's mandate is to promote compliance through education. Unfortunately, in the mid-80's pilots became skeptical of the FAA and its intent towards compliance. This skeptism allowed a gap to form between the pilots and the FAA. Pilot's did not feel comfortable speaking with the FAA regardingcompliance with the FAR's. Ce rtificate action against the pilot was too great a risk. This allowed companies such as NEJC to foster an attitude of non-compliance because they werenot being challanged by the FAA or the pilots. This led to a compromise in public safety.

I believe that until pilots can voice their concerns openly with the FAA, operators will continue to pressure and coerce pilots toward violating th e FAR's.

TRAINING

In-house training was always the desire of Mr. Holtz. This assured the absolute minimum cost for initial and upgrade training. The standard company policy was to receive one hour of initial training in a Learjet before being dispatched on your first revenue trip. The majority of new hire copilots had little or no jet time.

After pressure from the insurance companies NEJC entered into a contract with Simuflite in Dallas, Texas for Learjet recurrent training. However, the standard 12 hour course for recurrent training (6 hours/crewmember) was reduced to just 6 hours total. This contract lasted about 4 months.

Page 5, paragraph 4 states that Mr. Mayer's training records indicate that he had approximately 7 hours of in-air training before he was dispatched on his first revenue trip. The fact is that he received only one hour of training and that his last 6 hours of reco rded training occured on a revenue trip, which was a normal procedure. The statement in the letter leads one to believe that NEJC invested 7 hours of training before dispatching Mr. Mayer on his first trip.

ROBERT TAMARIS

Mr. Tamaris is an example of how NEJC encouraged and condoned over-eager and loyal pilots. Proof of this encouragement can be found in the pilots pay records.

Being personally responsible for running computer printouts of monthly flying summarys, I could determine which pilots consistantly flew greater hours on a monthly basis. The disparity became greater over a longer period of time. It was not uncommon for the discrepancy to be as great as 60 hours per month. This confirmed a favoritism tc pilots that "got the job done". In addition, dispatchers were known to crew pilots for favorable trips based on their performance on past trips.

FLIGHT AND DUTY TIME

The company operating philosophy regarding crew duty was that when a pilot was dispatched his day ended 14 hours later. This fostered an operating norm that led to frequent overduty excursions based on many circumstances. This created an enviornment of fatigued crews and rampant morale problems. If a pilot questioned a duty assignment it often meant a loss of flight hours.

WEIGHT AND BALANCE

The company had a weight and balance problem with two aircraft. In both instances I did the actual weight and balance calculations for the aircraft and determined the operating limitations. However, trips were dispatched with improper loads. This again was because of pressure from management.

Page 9, paragraph 1, "NEJC did not coerce its pilots to tanker excessive amounts of fuel or to fly overweight aircraft. A specific instance of management pressure occured between Mrs. Meta Buttenheim, Mr. Holtz, Mr. Randy Kroschwitz and myself. Mr. Kroschwitz was dispatched to Washington Dulles airport and was expected to tanker excessive fuel to reduce trip cost. Mrs. Buttenheim discovered that fuel was purchased at Dulles and Mr. Kroschwitz was called in to give his reasons. After a heated discussion Mr. Kroschwitz proved his point but not before management put him on the defensive.

CARGO NETS

From my hire date of February 1984 until February 1987 no cargo nets were available for use by the pilots. As chief pilot I voiced my concerns to the Director of Operations and although he was supportive he was unable to convince Earl Holtz of there need. In fact, money was first spent on cargo liners to prevent damage to the aircraft interiors before cargo nets were installed.

I received a letter from the Allentown FSDO late in 1986 regarding our method of cargo restraint. I was given this letter by Mr. Holtz and told to take care of it. The fact that no Form 337, for repairs and alterations, was filed with the FAA regarding cargo nets, should have been alerted that we had none.

I contacted numerous companies regarding cargo nets but all proposals were denied. However, NEJC continued to fly cargo flights with the FAA's knowledge.

In January 1987, I located a company in Texas that sold approved cargo nets (with local FAA approval) at a cost of about $600.00 dollars. After notifing Mrs. Buttenheim, I was allowed to purchase one cargo net even though we had five aircraft and multiple cargo trips were common.

Regarding the second paragragh under "cargo nets" the whole statement is ludicrous. Pilots had demandedcargo nets since I was employed. To pilots flying without cargo restraints was unsafe and a flagrant violation of the FAR's.

The fact that a pilot would forget a cargo net that would secure 2000 pounds of cargo directly behind him defies logic. In addition the statement regarding seatbelts holds no merit. After sixteen years of flying I never saw a pilot forget to fasten his safety belt.

MAINTENANCE

Although I can not comment directly on the Coatesville, Pa. incident, I can shed light on standard maintenance practices.

Extreme pressure was placed upon the Director of Maintenance with regards to aircraft down time for maintenance. No sooner than an aircraft was scheduled in for an inspection Mr. Holtz and Mrs. Buttenheim would start subtle pressure to move the aircraft. Frequent trips to the hangar to 'oversee' the operaton would be followed by more direct pressure as the alloted time drew near.

Many times aircraft inspections were completed in considerably less time than the industry standard. And at times, aircraft left the hangar with incomplete inspections to finished at a later date.

It was well known that NEJC had two sets of aircraft discrepancy records for each aircraft. One for in-house use and the other for FAA use. It will suffice to say that NEJC may no attempt to use the aircraft discrepancy record the way the FAA had intened it to be used. In fact, there were few pilots that knew the FAA procedure of maintenance write-ups and deferred records of maintenance. NEJC's method of discrepancy write-ups allowed the aircraft to be dispatched from the home base with open discrepancies while the offical aircraft record showed none.

CONCLUSION

Mr. Earl Holtz was a hands on manager that became personally involved in all aspects of his company's operations. If a pilot failed to complete a trip to his satisfaction he would reprimand him with abusive and belittling language, sometimes in front of his peers.

An example was with Mr. Alan Begg a line captain with the company and well respected by his peers. Mr. Begg was dispatched on a trip from New York to Keflavik, Iceland. As stated previously, no international charts were available for him to use. Mr. Begg copied some charts from a local operator and for additional safety used an international flight planning company to obtain a computerized routing, the cost $46.00 dollars. When Mr. Holtz discovered this he reprimanded him and used abusive language.

This type of behavior was what fostered an atmosphere of low moraleand allowed the company to slide into a careless attitude of FAR compliance.

TESTIMONY OF
SUSAN J. WOODWARD
FORMER MANAGEMENT OFFICIAL
NORTHEAST JET

BEFORE THE

SUBCOMMITTEE ON
INVESTIGATIONS AND OVERSIGHT
COMMITTEE ON
PUBLIC WORKS AND TRANSPORTATION
TUESDAY, JUNE 19, 1990

* * * *

My name is Susan Woodward. I worked for Northeast Jet for approximately three years, from 1984-1987. I was hired to work in dispatch and to help manage during their foreseeable growth period. I was previously a client of Northeast Jet employed with Newsweek Magazine.

I had no previous knowledge of jets, flying, regulations, etc. All I learned came from Mr. Holtz, Ms. Buttenheim and Paul Kaye.

It saddens me that this company that had so much potential had in the end created its own demise. I am testifying because of all of the effort and time that has been spent by both former pilots and agencies investigating Northeast Jet that did in fact lead to Northeast Jet's license being suspended. It is frustrating and seems immoral that Mr. Holtz is back in business as usual.

As I was trained in only a Northeast Jet atmosphere, I feel it is important to relay what I learned. The client comes first--get the trip, get it done on our fuel, and get it done in the most economical way--this was the spirit Mr. Holtz conveyed from day one. He ran his company the way he and Ms. Buttenheim saw fit. In spite of the fact that he did have strong middle management (Mr. Kaye, Mr.

Telfer, myself), he very seldom delegated. Ms. Buttenheim, who was close to being a financial genius, kept track of every penny, flight hour and person that came and went at Northeast Jet and relayed all to Mr. Holtz.

I feel that it was because of her that all the pilot flight inspections looked "good." She checked them all--if there was an illegal duty time present she sent the paperwork back to Mr. Kaye to "correct" with the pilot. They were very good at keeping things under wraps.

All practices were the same or in my opinion even better during the growth period as they seemed to be in the public eye more than ever. My normal work week was 35-40 hours in the office and 30-40 more at home (all night). In all my experience, Mr. Holtz was directly involved in all operations when there was a problem. It is true that he spent less time in dispatch and more on the business side in the growth period but when there was a problem with a plane, pilot or ruling, he was involved. Ms. Buttenheim and I moved or dispatched all the planes even though neither of us had any specific training. So she or I would contact Mr. Holtz or Mr. Kaye. If the answer we got from Mr. Kaye was not helping to get that plane out, Mr. Holtz was called.

I am more than sure that phone logs would substantiate his involvement at specific times--even when he was out of the country.

Mr. Holtz was often verbally abusive, starting early on in my employment. He would tell me that he was the boss, it was his company, and I was to do what I was told to do. I quit--he later

apologized. I never had trouble with him again, but many others who put up with his verbal assaults continued to get them.

Full fuel out of ABE was company policy. I gave the fuel loads 50 percent of the time to line service from the pilots. That was the Northeast Jet way.

There was a tremendous amount of pressure on each person because ultimately only what Mr. Holtz and Ms. Buttenheim decided was done. If he had been able to delegate authority, improvements might have been made, but he listened to Ms. Buttenheim, thereby digging both of them into the hole they are now in.

Mr. Kaye had the potential to be a great Director of Operations in many ways but was constantly overridden. Many times when a pilot refused to take a trip with a plane that had a mechanical problem, Mr. Kaye would take the trip himself to get Mr. Holtz and Ms. Buttenheim off his back and protect his fellow pilots.

They ran their company like a two-person dictatorship with no real respect for rules or their employees. The more they grew, the more that hurt them.

Mr. Holtz, from my knowledge, was involved in every jet that left with a problem--if we could contact him--and we often did, even overseas.

From the time I started working there until the time I left, I was aware of the very cozy relationship Mr. Holtz and Ms. Buttenheim had with Mr. Doster, as evidenced by the lunches they took, drinks after work at our office, drinks and cake for him at our office on his birthday. Just before I quit Northeast Jet, Ms. Buttenheim informed me that they had offered him an advisory position at

Northeast Jet at approximately $60,000 a year and that he may be retiring soon and take it.

There was a distinct atmosphere of pressure and the only way was their way--get the trip and get it done.

I never heard of cargo nets being used or offered in my time there and I again would have told line service to install them.

Northeast Jet and Mr. Holtz had great potential; they abused license, privileges, and their employees. If it was necessary for him to learn by all the violations and ill will he has condoned--why should he be given the chance to try again? What excuses him from following the laws?

As for Mr. Tamaris, the "Northeast Jet policy" was if there was a questionable trip (duty time, airport landing length, etc.) we could and would call Mr. Tamaris who always said yes. Mr. Holtz was well aware of this.

In response to duty time, pilots were expected to falsify their records.

If pilots declined trips for mechanical reasons, flight duty time, etc., Ms. Buttenheim would be sure to keep track of it and if possible, their flight hours would be down or they would get stuck out on the road.

Both Mr. Holtz and Ms. Buttenheim (who wielded great power over Mr. Holtz--she said he would always do what she decided) put tremendous pressure on maintenance and hired people who got things done the way they wanted them to.

Mr. Holtz and Ms. Buttenheim solely ran the company using employees only because it was a necessity. Although I felt at times

Mr. Holtz was ready to make positive changes in the management of Northeast Jet, Ms. Buttenheim never gave him the chance. However, he chose the path his company took; he is ultimately responsible for all that happened.

I hope that my testimony and the testimony of other former employees of Northeast Jet will help the Committee to see the importance of not rewarding companies that abuse their privileges.

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March 6, 1989

VIA FEDERAL EXPRESS

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Re: Earl Holtz/Northeast Jet/Private Jet Services

Dear Mr. Johnson:

This letter follows up our meeting of February 17, 1989, and provides the additional information you and Fred Leonelli have requested. It is also intended to summarize what we hope you will agree has been a frank exchange on both sides regarding the problems which existed at Northeast Jet. Much ground has been covered since the company agreed to drop its appeal of the emergency revocation and authorize us to candidly discuss with you the allegations against it. We have tried to address the concerns you raised during our meetings and provide specific information in response to the many pointed questions which arose during our discussions. In our judgment, this process has been extremely helpful (1) in identifying the scope and causes of Northeast Jet's problems, (2) confirming that they are correctable and that Mr. Holtz has the ability, will, and desire to oversee a model operation, and (3) identifying the safeguards

which would ensure under any circumstances that similar problems do not arise in the future.

Overview

Our joint review of the facts has made clear that there were indeed problems at Northeast Jet, particularly in the areas of flight and duty time, weight and balance, and maintenance recordkeeping. However, a dispassionate review of the facts supports several ameliorating conclusions.

First, we hope we have convinced you that at least some of the accusations against Northeast Jet, especially those made by disgruntled or overwrought former employees, were inaccurate or overstated. Indeed, as we have discussed, some of the most serious accusations against Northeast Jet were simply untrue. For example, the suggestion that Northeast Jet transported passengers from Helsinki to London on an aircraft with an inoperative engine proved to be totally false. As we explained to you during our December meeting, and subsequently documented, Northeast Jet arranged for alternative transportation for its passengers when Northeast Jet's aircraft experienced engine problems in Helsinki.

Second, the compliance problems which did exist at Northeast Jet were not symptomatic of widespread intentional or fraudulent conduct sanctioned by Northeast Jet. Northeast Jet was a financially sound carrier with an unblemished record of compliance over many years. This was not a case in which a financially weak company deliberately cut corners on safety to increase its revenues. To the contrary, Northeast Jet was a very profitable company which invested substantial sums of money in training and safety. We believe that Northeast Jet was a responsible company which, over a period of several years marked by rapid growth, slid into bad habits and sloppy practices. The vast majority of flights were, nevertheless, operated properly.

Third, a significant factor in the development of an apparently lax compliance attitude at Northeast Jet was the rapid growth of the company over the last several years of its existence. Prior to that time, Earl Holtz, acting as Director of Operations, was very much involved in the operational and FAR compliance side of Northeast Jet's business. During this period, Northeast Jet's compliance with the FARs was exemplary. Northeast Jet's rapid growth, however, impelled Mr. Holtz to spend more and more time on the financial and business side of North-

east Jet, and to ultimately entrust the operational side of the business to a new Director of Operations, Paul Kaye. As we have discovered since the revocation, Mr. Kaye was a poor choice to be Director of Operations. Indeed, we believe the fundamental cause of many, if not most, of the problems which led to the emergency revocation arose because Mr. Kaye and other middle management personnel simply did not do their jobs.

Fourth, Earl Holtz was not personally involved in any intentional violations of the FARs or any alleged fraudulent activities. Mr. Holtz was responsible, however, for failing to install stronger middle management personnel, particularly, in the positions of Director of Operations, Director of Maintenance, and Chief Pilot. He was responsible for not properly supervising the airmen who in fact held these positions. Mr. Holtz understands and has accepted that responsibility and has learned an important and painful lesson -- that he, as President, will always be ultimately responsible for establishing a system of compliance which ensures that the FARs are scrupulously observed. Mr. Holtz's recent efforts in connection with the recertification of Lehigh Valley Jet Center as a repair station shows that he has learned from his mistakes and is committed to operating in full accordance with the letter and spirit of the FARs.

Fifth, based upon our review of the facts and our own investigation of what occurred at Northeast Jet, we believe it fair to say, without minimizing Mr. Holtz's ultimate responsibility for Northeast Jet's compliance with the FARs, that the Allentown FSDO bears some responsibility for the problems which occurred at Northeast Jet. Many of the problems cited by the regional inspection team were known to, or approved by, the local FSDO. For example, we understand that Northeast Jet's system for recording "squawks" was well known to the FSDO, who were even involved in developing and refining the system. Similarly, we understand that the FSDO was well aware of Northeast Jet's emergency and hazardous materials training procedures over a period of many years. Indeed, we believe that the FSDO orally approved those procedures in the late 1970s or early 1980s. In addition, the gradual development of a casual attitude by some at Northeast Jet regarding flight and duty time is perhaps not surprising given the FSDO's attitude set forth in the FSDO memorandum we provided to you. While we recognize that the ultimate responsibility for compliance with the FARs is with the certificate holder, we think that it is clear that a lack of guidance and oversight by the FSDO contributed to the evolution of a

casual compliance mentality on the part of some personnel at Northeast Jet.

Finally, we believe the problems which led to the revocation are correctable, most importantly by recruitment of strong managers in critical safety-related positions. Structural and organizational provisions can also be made to ensure strict future compliance with the FARs.

Specific Factual Response

In the course of investigating the allegations set forth in the Order of Revocation and gathering information in response to questions raised by you and your staff, we have gained a better understanding not only of the particulars of many of the allegations, but also of the circumstances giving rise to some of the problems which existed at Northeast Jet. We will briefly summarize below what we have learned about the areas of concern to the FAA referenced in the Order of Revocation and during our discussions.

1. Training

In our discussions, you have repeatedly expressed great concern about the adequacy of Northeast Jet's training programs and depth of Northeast Jet's commitment to training. We understand that your concerns arise primarily from statements made by several younger pilots interviewed during the inspection of Northeast Jet.

We have previously provided you with information and documents relating to Northeast Jet's willingness to commit substantial sums of money to the training of its employees. In particular, we have provided you a copy of Northeast Jet's training contract with Flight Safety International, which called for the expenditure of approximately $240,000 in direct costs for pilot training during the period 1988-1989. We should point out that under the Flight Safety contract there was absolutely no economic benefit to be derived by the company if pilots failed to complete the recurrent training requirements. For example, Northeast Jet was required to pay for check rides for its pilots whether or not they were in fact accomplished. If middle management cut corners, or, worse, lapsed into potentially fraudulent activity, Northeast Jet derived no significant gain; such would have been contrary to company policy.

We do not doubt for a minute, however, that some problems did in fact exist. It seems clear, for example, that the Director of Operations and the Director of Training were less than diligent in promptly documenting training. Indeed, we have found that it was not infrequent for paperwork on check rides and other recurrent training to lag behind the actual completion of the training. Indeed, such a lag is the complete and total explanation for the allegation contained in Paragraph 9(b)(i) of the Order of Revocation, involving a flight performed by Mr. Holtz. However, we have found no evidence whatsoever that Northeast Jet's commitment to the actual completion of training was anything less than solid.

With respect to hazardous materials recognition and emergency training procedures, we have recently learned that the procedures utilized by Northeast Jet were orally approved by the FSDO in the late 1970s or early 1980s. Northeast Jet and the company's airmen believed in good faith that the procedures were authorized. Moreover, when notified during the inspection that actual participation in emergency drills was a required completion standard, Northeast Jet immediately took steps to insure that all of its employees met the appropriate standards of completion for emergency training.

We are aware that you have heard some disturbing stories from several younger and inexperienced pilots regarding the training they received as "new hires" at Northeast Jet. We have investigated some of these stories and believe that the allegations are somewhat overblown, if not entirely inaccurate. For example, we understand that Roger Mayer stated during the inspection of Northeast Jet that, as a new hire with 1,100 hours of flight time, he received very little training and only one hour of flight time before being approved to fly revenue flights.

Our review of Northeast Jet's training records, flight records, and Mr. Mayer's personnel file present a somewhat different picture. For example, Mr. Mayer's resume and application for employment at Northeast Jet represent that he had 1,560 hours flight time at the time he was hired by Northeast Jet -- not the 1,100 hours he mentioned to the inspection team. Moreover, Mr. Mayer's training records and Northeast Jet's flight records indicate that he had approximately 7 hours of in-air training before he flew his first revenue trip -- not one hour.1/

1/ Relevant records are appended as Attachment A.

In addition, in accordance with company policy for new hires, Mayer flew as SIC with a senior pilot at Northeast Jet during a probationary period until it was determined that he was qualified to fly the line on an unrestricted basis.

We believe that the discrepancy between Mr. Mayer's statements to the FAA and Northeast Jet's policy and training records is perhaps due to the stress of the inspection and the understandable desire of a young pilot to protect his career.

2. Robert Tamaris

You have expressed particular concern about the many allegations of non-compliance on the part of Robert Tamaris because it suggests that Northeast Jet's management condoned, and perhaps even encouraged, such conduct. We agree that Mr. Tamaris was a problem and presume that many of the allegations made against him are accurate. However, as we have discussed, we are convinced that Northeast Jet neither encouraged nor condoned such activities of Mr. Tamaris. Indeed, as we explained regarding the Hilton Head incident, many of Mr. Tamaris' alleged violations not only did not benefit the company, but indeed were unnecessary and even costly to Northeast Jet.

We are well aware of the many statements made to the inspection team regarding Mr. Tamaris' exploits. However, we found that many of the complaints made by the inspection team were not brought to the attention of the Chief Pilot, the Director of Operations, or senior management of Northeast Jet until well after they occurred, if at all. When senior management at Northeast Jet did learn of the complaints against Tamaris, the Director of Operations was instructed to investigate the complaints and insure that no pilot, including Tamaris, acted in flagrant violation of the FARs. Indeed, it was Mr. Holtz's understanding, in late 1987 and early 1988, that complaints against Mr. Tamaris had been investigated by the Director of Operations, and that Mr. Tamaris had been reprimanded.

While Mr. Tamaris was clearly a problem and Northeast Jet's supervision of this over-eager and over-"loyal" pilot was less than exemplary, we must in all fairness add that some of the incidents involving Tamaris which were described to the inspection team appear to be fictional. For example, the disturbing description of a flight over the North Atlantic captained by Mr. Tamaris on January 12, 1988, appears to largely,

if not wholly, fanciful. You will recall that Gary Gebert told the inspection team that on a flight between Gander and London, Tamaris left Gander without emergency oxygen and that the plane was so heavy that Tamaris was unable to climb to 41,000 feet, an instead flew at 38,000 feet at .58 mach.

After a brief review of the performance characteristics and flight manuals of the aircraft involved, it appears extremely unlikely, if not impossible, for the events to have occurred as described. In the first place, the aircraft was not overweight on take-off at Gander and could easily have attained 41,000 feet in no more than 18 minutes even assuming atypically warm ambient temperatures on this January evening. Even at its maximum take-off weight, the aircraft was easily capable of reaching 41,000 feet without any problem whatsoever. In fact, this aircraft was approximately 1,300 lbs. below maximum take-off weight. We have enclosed the manufacturer's performance charts to verify this discussion. (Attachment B.)

In addition, the suggestion that Tamaris managed to fly the plane as slow as mach .58 while trying to gain altitude simply does not comport with reality. The manufacturer's performance specifications indicate that the plane would have stalled at .65 mach under the conditions of the flight. More importantly, the stick shaker would have automatically engaged long before th aircraft reached such a slow speed and would have been obvious t everyone, including the passengers. We note that Gebert does nc mention any such occurrence in his statement.

With respect to the depleted oxygen, Mr. Gebert's suggestic that it had leaked out is extremely questionable. The company's uniform policy was to recharge the tanks in Allentown before an aircraft was dispatched on an overseas flight. Further, there were additional oxygen tanks on board due to the fact that this was a medical transport flight. One would expect there to have been some variation in the oxygen reading due to the extreme difference in temperature between the warm hangar in Allentown where the oxygen was charged and the extreme cold of the Gander runway. However, such a variation would not indicate either an oxygen leak or a lack of emergency oxygen. In fact, the emergency oxygen system on the aircraft did not exhibit a leak : subsequent flights. We think Mr. Gebert, a young and inexperienced pilot, was probably confused and his exaggerated statements to the FAA may have been designed to curry favor with the inspection team.

3. Flight and Duty Time

As we discussed on several occasions, we recognize that flight and duty time was a problem at Northeast Jet as it is with many on-demand air carriers. We have also discussed Allentown FSDO's contribution to a casual compliance attitude regarding flight and duty time. However, having conceded, as we must, that there were flight and duty time violations at Northeast Jet, we were pleased to discover upon investigation that there was not the rampant abuse of flight and duty standards which you feared. Moreover, we found no evidence of a company policy to coerce pilots to violate the flight and duty time regulations. Indeed, pilots we talked to had declined flights because of flight and duty time considerations, without threat of discipline.

Although we are convinced there were a few instances of flagrant violations of flight and duty time standards, most of the violations we found were marginal and generally were the result of not patently unreasonable interpretations of the FARs held in good faith by Northeast Jet and the individual pilots. Some of these interpretations, for example, the proper definition of Part 91 flights, resulted from discussions with previous legal counsel. Other violations resulted from not unreasonable interpretations of the FARs relating to, for example, exigencies involved in medical and organ donor flights.

Most importantly, we have found no evidence of either an official or unofficial company policy to encourage pilots to falsify their manifests to understate flight and duty time. To the contrary, the pilots at Northeast Jet likely were not intimidated or afraid to record flight times in excess of the maximum on their manifests, perhaps because of perceived FSDO laxity. We do not doubt there may have been inaccurate entries made in isolated manifests. If so, these discrepancies can be adequately dealt with in the context of individual airman cases.

4. Weight and Balance

Our investigation of the weight and balance allegations in the Order of Revocation confirm that there were a significant number of overweight take-offs and landings at Northeast Jet. We believe, however, that a disportionate number of weight and balance violations involved one particular aircraft -- a Jet Star -- with an unusual operating weight. In large part due to the difficulty of operating it properly, Northeast Jet rather quickly

disposed of the aircraft. In addition, we found that weight violations occasionally occurred due to the significantly different maximum take-off and landing weights of the Lear aircraft used by Northeast Jet. Better training and closer supervision of pilots would have prevented many of these inadvertent overweight take-offs and landings.

You and your staff expressed considerable concern over allegations that Northeast Jet encouraged pilots to tanker excessive amounts of fuel in order to save money on fuel costs. Northeast Jet did have a general company policy of tankering fuel at Allentown so long as the aircraft was within the legal limits at its destination. Northeast Jet did not coerce its pilots to tanker excessive amounts of fuel or to fly overweight aircraft.

As we discussed during several of our meetings, the excessive tankering of fuel by some pilots, particularly Mr. Tamaris, frequently resulted in no economic benefit to the company. For example, the Hilton Head incident involving Tamaris' overweight landing made no economic sense for Northeast Jet. Indeed, it cost Northeast Jet money. Tamaris apparently tankered excessive amounts of expensive fuel at Dulles Airport in order to land overweight at Hilton Head. In point of fact, fuel was substantially more expensive at Dulles than it was at Hilton Head.2/ We trust the FAA is aware that there are other reasons for tankering fuel which have nothing to do either with the wishes or best interests of the company.

Within the category of over-blown, if not wholly erroneous, incidents was an allegation by Mr. Beamer that, on June 28, 1987, Mr. Holtz called him and "demanded that he go into Warrensburg over weight." We reconstructed the circumstances of this flight, because it was one of the few direct allegations of which we are aware that reflects on Mr. Holtz's personal attitude toward compliance.

The aircraft was a Learjet 35, N158NE, which could hold a maximum of 6,238 lbs. of fuel. N158NE was initially despatched with Mr. Beamer as PIC on a positioning flight bound for Warrensburg, Missouri -- a westbound flight of approximately 3.0 hours, assuming typical winds. The fuel burn for a trip of this length would be 3,700-3,800 lbs. It can readily be seen

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2/ This is surprising, perhaps, but true nonetheless because Page Avjet has a monopoly at IAD.

that the maximum fuel on board at landing, assuming Mr. Beamer fuelled to the maximum in Allentown, would be in the neighborhood of 2,500 lbs. (Additionally, 125 lbs. of fuel would likely have been used taxiing in Allentown.)

The perceived operative constraint in this situation was a landing and take-off weight restriction at Warrensburg of 12,500 lbs. 3/ The empty weight of the aircraft (including two crew) is 10,313 lbs. With a passenger, it would be about 10,500 lbs. It can readily be seen that the aircraft could have been over weight at arrival by no more than 375 lbs. (20 minutes of flying time) -- assuming Mr. Beamer had been imprudent enough to top off at 100% before leaving Allentown.4/ Assuming winds had been extra light, the discrepancy might have been as high as 625 lbs. (about 35 minutes). There is simply no reason why this experienced pilot should not have been able to plan properly so as to permit routine and efficient operation of this flight.

It was in this context that Mr. Beamer called and spoke to Mr. Holtz 5/ at 0600 on a weekend morning to report that he had proceeded to an alternate airport, Columbia, Missouri, ostensibly because of a weight problem. Mr. Holtz states that under no circumstances did he advise Mr. Beamer to go in to Warrensburg over weight or break or bend any FAR. As Mr. Holtz recalls it, he calmly heard Mr. Beamer explain where he was, and asked if his present circumstances permitted a correct and legal landing at Warrensburg. Mr. Beamer replied, "yes," as the facts suggest he had to. 6/ Mr. Holtz recalls criticizing Mr. Beamer for failing

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3/ The Warrensburg airport manager reports the actual maximum landing weight as 26,000 lbs. The Jeppesen plate, however, indicated that the maximum gross weight was 12,500 lbs.

4/ The maximum fuel load, 6,238 lbs. less approximately 3,895 lbs. of fuel expended, plus 10,500 lbs., i.e., approximately 12,875 lbs., less 12,500 lbs.

5/ Actually, he first called the company's offices, using the general 800 number and reached the answering service. After Paul Kaye, the company's Director of Operations, proved unavailable, Mr. Holtz was called.

6/ Given that Mr. Beamer had added an extra landing and take-off at Columbia into the exercise, requiring minimally an

(continued...)

to manage his flight correctly, asked him why he had gotten him up at 0600 in the morning, and told him to proceed.

In retrospect, the only reasonable explanation which fits the physical facts is that Mr. Beamer took on too much fuel at Allentown, though he had been briefed about the trip the previous day. He apparently did not think to burn off fuel to become legal at his destination (much more economical than adding an extra cycle), and called the company after unnecessarily heading to an alternate, all in a misguided attempt to provide an advance explanation for his foolishness. When speaking to the FAA, this explanation transmogrified into a charge against Mr. Holtz seemingly contradicted by physical facts.

5. Cargo Nets

As we have discussed previously, we have confirmed that cargo nets were available for use on cargo runs and that line service personnel were always available to install them. Moreover, Northeast Jet had a clear policy of using cargo nets and cargo liners to protect the interiors of Northeast Jet's Lear jets.

We do not doubt that some pilots neglected to ask that the cargo nets be installed. For some pilots, it may have been as routine as not buckling seat belts in automobiles is standard operating procedure for many motorists. We note that the transportation of cargo was a small portion of Northeast Jet's business and crews perhaps did not develop a proper routine. Aggressive enforcement of company policy is indicated.

6. Maintenance

We have explored in some depth the problems relating to maintenance record keeping and minimum equipment list procedures at Northeast Jet. Although we are convinced that the maintenance procedures were not designed to intentionally violate the FARs or clear unairworthy aircraft for operation, we and Mr. Holtz agree

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6/(...continued)
additional 1,000 lbs. of fuel, the aircraft could not have arrived at Warrensburg with more than 12,000 GTW (unless Beamer was crazy enough to put on fuel at Columbia). Recall that, when landing at Columbia, he could not have weighed more than 13,000 lbs.

that the maintenance and MEL procedures at Northeast Jet were seriously flawed. Notwithstanding the fact that the system was known of, and approved by, the local FSDO, Northeast Jet undoubtedly should have recognized the flaws in its procedures.

The problems with Northeast Jet's procedures are no more apparent than in the Coatesville incident which occurred on January 12, 1988. There are three aspects of the Coatesville incident: (1) the gears up contact with the runway; (2) the ferry of the damaged aircraft back to Allentown; and (3) the maintenance of the aircraft prior to the incident. Analysis of all three aspects of the Coatesville incident since the revocation has opened Mr. Holtz's eyes to the seriousness of som of the problems which existed at Northeast prior to revocation; in fact, this is an understatement.

First, the damaged aircraft was ferried back to Allentown without being inspected and cleared by qualified maintenance personnel. The pilot determined in conjunction with the Directo of Operations that the aircraft was airworthy to ferry back to Allentown. The aircraft was not seriously damaged and had been flown for approximately 10 minutes following the first attempted landing. The pilots, acting under the mistaken belief that ferrying the aircraft back to Allentown under the authorization of the Director of Operations was acceptable and feeling confident about the aircraft's general airworthiness because of its evident manageability during the go-around, acted, to the best of our knowledge, in good faith.

It is worth noting that Mr. Holtz was out of the country when the incident occurred and was not involved in the decision to ferry the aircraft back to Allentown. Mr. Holtz was, howeve contacted following the accident and immediately ordered that t FAA be notified, proper reports be filed, and that the aircraft be correctly repaired.

With respect to the gears up contact with the runway itsel we think it goes without saying that the incident would not by itself reflect inadequate training on the part of Northeast Jet To the contrary, this particular flight was piloted by an experienced crew. Their culpability, if any, will to the exten relevant be developed in individual airmen cases.

The aspect of the Coatesville incident which is of greates concern for present purposes is the maintenance of the aircraft prior to the incident and the failure to use proper MEL

procedures in clearing the aircraft. The gear warning horn was apparently inoperative at the time of the incident. Moreover, there had been prior reports of the malfunctioning of the gear warning horn. Although the warning horn had been inspected and found to test positive on the ground, all concerned should have insisted on a complete diagnostic and repair before the aircraft was cleared for operation. A correct method of logging "squawks" would have made the need more apparent. This was not done.

We are aware of allegations that the aircraft was prematurely pulled from the maintenance department in order to fly revenue flights, presumably at the insistence of senior management at Northeast Jet. Both Mr. Holtz and Ms. Buttenheim deny that they ever requested, much less demanded, that the maintenance department release an unrepaired aircraft for operation. Indeed, Mr. Holtz was out of the country during the period immediately prior to the incident. Notwithstanding that fact, Mr. Holtz feels responsible for not recognizing the seriousness of the problems with Northeast Jet's MEL procedures.

Fortunately, Mr. Holtz has learned an important lesson -- that a strong Director of Maintenance committed to full compliance with Federal Aviation Regulations is essential for safe and profitable aviation. Mr. Holtz has begun to put those lessons to use in obtaining Lehigh Valley Jet Center's repair station certificate.

* * * *

As far as we are aware, the foregoing, together with previous correspondence, fulfills all outstanding requests for information and comment. If not, please let us know. If yes, it should now be possible to address the issue of when Mr. Holtz will be permitted to apply for a new air carrier operating certificate, and what restrictions, if any, on Mr. Holtz's activities are called for and for how long.

From our standpoint this process has been extremely useful, and there is no doubt lessons have been learned which might have been overlooked had your questions been less searching. These lessons have, we are convinced, been genuinely taken to heart. New material for future manuals is being prepared. Suitable personnel for middle management have been located and recruited. There can be no doubt that FAA's enforcement objectives have been fully met in this case. The cost to Mr. Holtz of the revocation

has, of course, been enormous from every standpoint and nothing would be furthered by extensive delays at this point.

We have previously transmitted a detailed blueprint and timetable for final resolution of this matter and respectfully commend it to your attention. From previous discussions, we recognize that you intend to expose the issues in this case to a wider internal FAA review and that Fred Leonelli may have simila intentions with respect to Flight Standards. Should there be a need for further factual clarification, let us know and we will provide additional documentation and/or submit to additional ora questions. If there are relevant questions of policy not previously explored, we would request a meeting or teleconferenc to provide our views. Finally, in the unhappy event that our proposal is not substantially acceptable to FAA, we would reques a frank meeting with all concerned to make a final attempt to find solutions for the remaining difficulties.

Your courtesy has been appreciated. We look forward to hearing from you.

Yours very truly,

Mark S. Kahan

and

David K. Monroe
Counsel for Earl Holtz and
Private Jet Services

Attachments

ROGER ALAN MAYER
178 Sleepy Hollow Road
Bloomingdale, New Jersey 07403
(201) 492-0351

CAREER OBJECTIVE: Flight Officer

FLIGHT TIME:

Total	1560		Cross-Country	500
Pilot in Command	1360	1360	Multi-Engine	530
Instrument	200		Turbine	110

CERTIFICATES:
Commercial Pilot with Instrument Rating
Single and Multi-Engine Land.
Certified Flight Instructor/Airplane Single Engine Land.
Instrument Airplane.
FAA Class 1 Medical Certificate, No Restrictions.

EDUCATION:

B.S. in Aviation Management/Flight Technology
Florida Institute of Technology
Melbourne, Florida 32901

A.S. Flight Technology (May 1985)
Mercer County College
1200 Old Trenton Road
P.O. Box B
Trenton, NJ 08690

EMPLOYMENT:

Flight Instructor (Aug. 1986 - Present)
Melbourne Aviation, Inc.
Melbourne, FL 32901

Flight and ground instruction given to private, instrument, commercial, and flight instructor students.

Co-Pilot (July 1986 - Sept. 1987)
King Air 200, BE90
Vic Osman Chevrolet
Melbourne, FL 32901

Flight Instructor/Pilot (May 1985 - September 1985)
Aero Venture, Inc.
Trenton-Robbinsville, NJ
Trenton-Robbinsville Airport

Flight and ground instruction given to private, instrument and commercial students.
Second in command Part 135 Charters.

Related Employment: Ground Support Technician for Gannett Flight Department on Gulfstream III's and HS 125's. (July 1986 - January 1987).

PERSONAL DATA:
Age 22
Marital Status: Single
Interests: fishing, reading, traveling, tennis

AVAILABILITY: Immediately - Willing to relocate.

REFERENCES: Furnished on request.

FLIGHT TRAINING RECORD

Jet Form FTR-001 (Flight Training Record) shall be utilized to record Flight Initial (I), Transition (T), Upgrade (U), Recurrent (R), Difference (D) and Minimum (LM) Flight Training.

Member Name: ROGER MAYOR — Domicile: Allentown, PA

Ratings: _____ License Type & Number: COMM 1444274

Training Hours

DATE	TYPE	TA/C	INSTRUCTOR	PIC	SIC	OBSERVED	INST	SIM'D	NIGHT	BLOCK
1/11/93	T	CE 25	[illegible]	--'--	--'--	--'--	--'--	--'--	--'--	6.2
1/12/93	T	CE 25	[illegible]	--'--	6.6	--'--	--'--	--'--	6.6	6.6
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TOTAL HOURS				--'--	--'--	--'--	--'--	--'--	--'--	--'--

GRADING LEGEND

U - Unsatisfactory: Maneuver or function is unsatisfactory for the training phase. Written comment will be made on the training form as to the exact nature of the problem area.

I - Incomplete: Indicates the trainee is below the average level of proficiency for a specific maneuver or function. This is not an unsatisfactory grade but does indicate room for improvement. Comments will be made on the training form.

S - Satisfactory: Trainee has demonstrated the maneuver or function at the necessary level of proficiency required. His/her ability to retain instruction is satisfactory.

NORTHEAST JET COMPANY FORM

Figure 4-17
(Sheet 8 of 10)

CLIMB PERFORMANCE
TWO ENGINE

CLIMB SPEED: 250 KIAS up to 32,000 feet
0.70 M above 32,000 feet

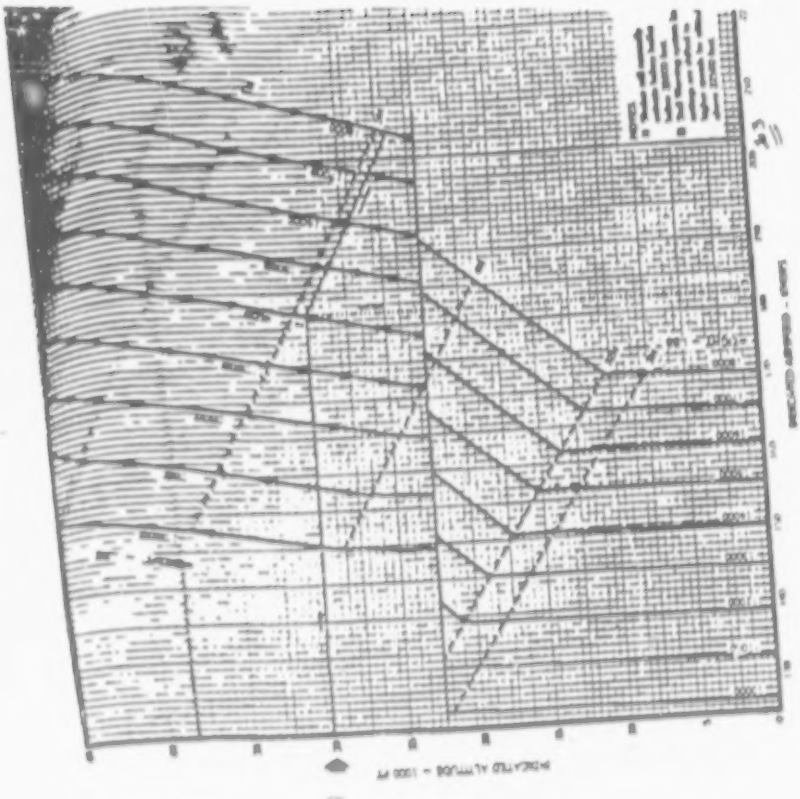

Figure 5.20

FAA'S SAFETY ENFORCEMENT PROGRAM AND RECERTIFICATION OF CARRIERS WHO HAVE HAD OPERATING CERTIFICATES REVOKED

WEDNESDAY, JUNE 20, 1990

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC.

The subcommittee met, pursuant to recess, at 10:30 a.m., in room 2167, Rayburn House Office Building, Hon. Glenn M. Anderson (chairman of the subcommittee) presiding.

Mr. ANDERSON. The committee will come to order.

This morning the subcommittee resumes its investigation into the FAA policy concerning the recertification of carriers who have lost operating certificates as a result of severe safety violations.

Yesterday, the subcommittee heard testimony regarding a specific case involving Northeast Jet, a charter company operating out of Allentown, Pennsylvania. It is difficult to understand why this company is back in business after committing such blatant violations as: Maintaining two sets of maintenance records; encouraging, forcing, or coercing pilots to violate flight and duty regulations; operating aircraft exceeding weight limitations; and falsifying training records.

It is even more disturbing to realize that this operator has been recertified, despite the fact that those FAA officials directly involved in the case wanted to keep the owner out for a period of five years. We learned that this worthy objective was sacrificed in the interest of achieving national uniformity.

We also learned that the sanction assessed was determined by prior precedents rather than by the specific circumstances of this case. We have to question the wisdom of that policy.

On the positive side, we learned from the FAA's Assistant Chief Counsel for the Eastern Region that this policy of limiting certificate revocation to one year is currently undergoing a reassessment.

Today we will explore the status of that reassessment and, hopefully, gain some insight into the FAA's current thinking. In addition, we will address the following areas:

One, the FAA's inability to monitor the activities of owners who have had operating certificates revoked. It does not make sense to allow these individuals, who have committed significant violations, to not be tracked through a centrally-maintained system.

Second, the FAA's unwillingness to seek both revocation and civil penalties simultaneously as a deterrent. We do not allow bank

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robbers or drug dealers to keep the profits of their crime. Why do we allow those who willingly violate Federal Air Regulations to keep their ill-gotten proceeds?

Third, the FAA's ability to ensure that its own work force is carrying out its mandate. Why did the system fail in the Northeast Jet case? How can a company receive 88 positive inspections in a ten-month period, and then, two months later, be closed down as a result of serious safety concerns? Are other carriers receiving glowing reports when more in-depth inspections would reveal more substantial problems?

And finally, we will address FAA's refusal to use the resources of the Department of Transportation Inspector General in investigating possible criminal activity committed by operators. At a time when the Agency maintains it has a stretched work force, why aren't they relying on the professional expertise of trained criminal investigators?

These are important questions which must be addressed so the mistakes made in the Northeast Jet case are not repeated. It is the goal of the subcommittee to ensure that FAA adopts a clear safety enforcement program which effectively deals with those who have knowingly placed the travelling public at unnecessary risk.

At this time I recognize the gentleman from Ohio, Mr. McEwen, the subcommittee's ranking Republican member.

Mr. MCEWEN. Thank you, Mr. Chairman. I have no opening statement.

Mr. ANDERSON. No opening statement? Okay.

Well, then, we will recognize Mr. Borski.

Mr. BORSKI. I have no opening statement, Mr. Chairman.

Mr. ANDERSON. Then I will introduce our witnesses. Our first witness today is Mr. Anthony J. Broderick, the Associate Administrator, Regulation and Certification of the Federal Aviation Administration; and Mr. Gregory S. Walden, the Chief Counsel of Federal Aviation Administration.

Would you gentlemen please rise and raise your right hand?

[Witnesses sworn.]

Mr. ANDERSON. Thank you very much. You may be seated.

Mr. Broderick, you may begin.

TESTIMONY OF ANTHONY J. BRODERICK, ASSOCIATE ADMINISTRATOR, REGULATION AND CERTIFICATION, FEDERAL AVIATION ADMINISTRATION, ACCOMPANIED BY GREGORY S. WALDEN, CHIEF COUNSEL

Mr. BRODERICK. Thank you, Mr. Chairman. We appreciate having the opportunity to appear before this subcommittee today.

In your letter of invitation, you asked us to respond to three issues: FAA's safety enforcement philosophy; the process used to recertify carriers whose certificates have been revoked for safety reasons; and how we prevent inspectors from developing overly cozy relationships with carriers. I will briefly respond to each of those issues.

In brief, FAA's view of safety enforcement is that it is one of the tools available to us to achieve compliance with our safety requirements. There are clearly circumstances in which the FAA must be

able to revoke a carrier's certificate immediately in order to protect the public interest or to take civil penalty action in order to penalize the violator and to deter others from similar safety violations. And we have not been reluctant to take tough enforcement action where warranted.

We have also been working on ways in which to improve voluntary compliance with our safety requirements. We have been encouraging carriers to ensure greater emphasis on safety at the highest levels within their organizations. We have provided incentives to carriers to put in their companies a system that will enable them to find discrepancies at the earliest possible time in order to take corrective action before public safety is compromised.

We need to assure that we are achieving the right balance of cop and coach in order to optimize industry acceptance of and compliance with our strict safety regulations.

With respect to the certification of a carrier whose certificate has been revoked for safety violations, there are several general principles that we apply.

First, when such a carrier applies to us for a new certificate, no special preference is granted. That carrier must meet each and every safety requirement and demonstrate to our satisfaction that it does so in the same way that a brand new applicant would have to.

Second, FAA surveillance activities take priority over all certification functions; therefore, a carrier seeking a new certification will need to wait in line in the certificating region to await the availability of FAA inspectors to undertake the intensive activities associated with certification.

Third, we often apply extra surveillance to carriers who have received a new certificate after having had a certificate previously revoked.

Fourth, in some cases, as in Northeast Jet, by earlier agreement, we may set out additional requirements which the applicant must meet that go above and beyond what other applicants would have to meet. Our goal is to ensure that the carrier will operate safely and in full compliance with our regulations, and the certification process is intended to see that the applicant has the wherewithal and the disposition to do so.

The subcommittee has also asked us to describe what we do in the FAA to ensure that inspectors do not develop an inappropriate relationship with those they regulate. Our basic approach is to ensure that multiple parties are involved in the inspection and surveillance process to minimize the possibility that oversight of a carrier will be unduly influenced by just one individual's actions. Let me elaborate.

All of our field organizations have supervisors who review both the quantity and quality of the work performed by our field inspectors. Additionally, the straight-lining of the reporting relationship of our regions to counterpart headquarters offices has given us a greater national perspective and evaluative capability than before.

Each office now develops inspection programs that are based on a national work program designed to see that each carrier is receiving appropriate FAA surveillance.

We have been working to develop greater databases to facilitate our ability to track what is going on throughout the system, both at the national and at the regional level. We have also automated and standardized operations specifications for carriers.

Our geographical concept calls for inspectors to undertake inspections of carriers operating within their regions, meaning that enforcement activities are not the sole domain of a carrier's principal operations or maintenance inspector. Our national aviation safety inspection program provides for special emphasis inspections using personnel outside the affected oversight organization, and we have been strengthening our evaluation functions both at the regional and national headquarters to provide an objective, outside perspective of inspection and surveillance activities.

In short, we are sensitive to the potential for situations in which our inspectors fail to objectively inspect air carrier activities. Over time, our track record has been, in my view, quite good, and we will continue to stress with our inspection personnel the need to do their jobs fairly and objectively.

That completes my prepared statement, Mr. Chairman. We would be pleased to respond to any questions you or other members might have.

Mr. ANDERSON. Thank you, Mr. Broderick.

Mr. Broderick and Mr. Walden, my first question is: How is the public interest being served when an operator like Earl Holtz, who blatantly and intentionally disregarded safety regulations, is allowed to return to aviation after a brief absence?

Mr. BRODERICK. I think the issue, Mr. Chairman, is whether or not the company that is now being operated is operating safely and in compliance with our regulations and whether it will continue to do so for the future.

For the past the question, of course, implicit is whether or not the action that we took was sufficient. In our judgment, at the time we took it, it was.

Mr. ANDERSON. Mr. Broderick and Mr. Walden, we have found that violators committing serious enough offenses to warrant an emergency revocation can usually return to the aviation business in about a year—sometimes even sooner. Do you think a year's absence is adequate?

Mr. BRODERICK. It is very difficult to generalize because you have to look at each case individually and on its merits. But the fact of the matter is that a one-year absence from the aviation business for an airline is typically the equivalent of a death penalty. Very few operators return to service, although some do if they meet our strict safety requirements before doing so.

Mr. ANDERSON. Mr. Walden, there are certain professions—legal, medical, banking—where, if individuals commit serious enough offenses, they will be prevented from practicing their chosen occupation. Why does operating an airline seem to be so different?

Mr. WALDEN. Mr. Chairman, the punishment that an airman or a company may receive from the Agency, as Mr. Broderick has indicated earlier, when it is revocation of its certificate, is often felt by the airman or the operator as the equivalent to a death penalty.

The lifetime ban, or a ban of a longer period than a year, would probably be a legislative choice for Congress rather than a regula-

tory choice for the Agency to make. Congress has recently—I guess within the last few years—specified for drug-related offenses a revocation of airman certificates on a lifetime basis. In 1984, they had provided for a five-year revocation; and in 1988 they provided for lifetime revocation. That is our only experience with Congress mandating a revocation to be effective longer than a one-year period.

Mr. ANDERSON. Mr. Broderick and Mr. Walden, in the Northeast Jet case, both the regional counsel and the inspector wanted to keep Earl Holtz out of aviation for five years. Why weren't they able to accomplish this?

Mr. BRODERICK. Mr. Chairman, I think that it is fair to characterize those discussions as being just that—discussions. I don't think it would be fair to say that the regional counsel, the regional flight standards management, or the people that were involved in the team effort that decided, in accordance with delegated authorities that they have, what the recommendation should be for a penalty. I don't think there was a big disagreement. There was a range of free discussion, as is always the case in a team effort, but I don't think it is fair to say that today, or even at some time in the past, that there was a strong feeling on the part of one or more members of the team that the chosen penalty that was recommended to headquarters and concurred in was something that was too soft. I certainly am unaware of any controversy surrounding that at the time—roughly two years ago now, I guess—that this case was being discussed.

Mr. WALDEN. In addition, there is some question as to the ability of the FAA unilaterally to impose a period of sitting out at the front end as opposed to denying an application for a new certificate.

Mr. ANDERSON. Mr. Broderick, regulation 135.13(b)(1) states that an owner can be denied a new certificate if the Administrator finds that the owner had previously had a certificate revoked. Why isn't this regulation used by the FAA to keep owners out for longer periods of time? And, in particular, why wasn't it used in the Northeast Jet case to achieve the sanction desired by the FAA officials closest to the case?

Mr. BRODERICK. The direct answer to that question, sir, is that 135.13 was specifically considered in the discussions of the appropriate penalty to recommend, and it was agreed by the team and so agreed between counsel for the FAA and counsel for Northeast Jet that we would entertain—not guarantee award, but entertain—application for a certificate one year later. So that is a decision that was made two years ago, and when that decision was made the ability of the people in the FAA to operate in accordance with 135.13 was certainly clear in their minds. They thought that that penalty, in line with 135.13, was the appropriate penalty, given the facts of this case.

Mr. ANDERSON. Mr. Broderick and Mr. Walden, do you need any new legislative authority to allow the Agency to keep the bad operators out of aviation for longer periods of time?

Mr. BRODERICK. I certainly don't think so, Mr. Chairman. The FAA has, if we can appropriately justify it, the ability to provide appropriate sanctions. The only time that you would need legisla-

tion would be if the Congress felt that there was some different minimum that should be applied. But we do have, I believe, the authority to vary the sanction in accordance with our statutory authorities, and also 135.13 that you mentioned earlier. What we can't do is vary it arbitrarily. We have got to consider the specific facts and be prepared to defend in a court of law our decision and prove to a reasonable judge that it was not arbitrary exercise of our authorities.

Mr. ANDERSON. Mr. Broderick, the subcommittee has discovered that if someone buys an existing part 135 operation, an on-demand charter company, that there is no review of that individual's compliance history. In fact, the only check that would be accomplished is to see if the individual is an American citizen. Is that correct?

Mr. BRODERICK. I believe you accurately state the practice that we have had in the past, Mr. Chairman. That is not a satisfactory solution. It is one of a couple of things that we are going to be reviewing in the near future. Specifically, we are going to modify our handbook guidance to our people in the field so that they specifically seek and obtain written information that asks questions that basically say, "Have you ever been involved in the kind of situation described in 135.13?" That will not only affirmatively seek the information that you are discussing, but it will give us a written record of the applicant's response. If, in the future, we find that the response was fraudulent, of course, it will give us grounds to proceed quite quickly to take action.

Mr. ANDERSON. Mr. Broderick, since 1985, I have a list of 54 companies who had certificates revoked. Could you explain for the subcommittee the process that would be used to determine if any of those operators have returned and are currently running an air carrier, and how long that process would take?

Mr. BRODERICK. We have a database in the safety analysis system that we use called the "vital information database." What we would do is take a list of the names of the people that were involved in that and search that database for those names.

I have never done that kind of thing before, but I imagine it could be done, certainly in a few days—perhaps in a couple of hours. I'm not sure that we have a search sub-routine that asks for that name. That is something that—this is a relatively new database, and that is the kind of capability that we want in the next year or two to install with the new computer equipment that we will be ordering.

Mr. BORSKI. Mr. Chairman, would you yield for a second?

Mr. ANDERSON. Yes, Mr. Borski.

Mr. BORSKI. Mr. Broderick, we have a list of the 54 companies. I wonder if you could take this list and provide the committee with that information?

Mr. BRODERICK. I would be happy to do so.

Mr. BORSKI. Thank you, sir.

Thank you, Mr. Chairman.

[The following was received from Mr. Broderick:]

Following is a listing of air carriers whose operating certificates have been revoked since 1985. In addition for each air carrier we have provided, a brief summary of when executives are (or were) employed in a management position subsequent to revocation, as well as a listing of executives who held office at the time of revocation. The Associate Administrator for Regulation and Certification is still researching data on thirteen of the air carriers and will provide data to the Subcommittee when it becomes available.

In the future the automated information systems will be enhanced to permit more ready access to these records. These enhancements will provide reliable methods to identify those individuals who were materially involved in the cause of revocation when they propose to engage in critical management positions of an air carrier. Included in this effort will be the development of a process to notify executives that they have been determined to be materially involved in a revocatlion and will be given an opportunity to appeal.

LIST OF AIR CARRIER CERTIFICATE EMERGENCY REVOCATIONS

OPERATOR	*DATE*
Ford Aire d/b/a Susquehana Airlines	4/85
NAL	8/85
Northland American	8/85
Southeast Air	8/85
U.S. Air Transit	8/85
Executive Aviation	9/85
Falcon Air	9/85
A.R.T. Management d/b/a Arizona Rapid Transit	9/85
Tomohawk	10/85
Kingfisher Air Service-Air Safari d/b/a Lewis Airlines	11/85
Papillon Helicopter, Ltd.	1/86
Bard Air	2/86
Mid-America Airways	8/86
TriStar Transport	11/86
Spectrum Helicopters	11/86
Buffalo Express Airlines	1/87
ConnAire, Inc.	1/87
Central Air Charter	2/87
Goldcoast Air, Inc.	2/87
Mid State/Executive Helicopters, Inc.	2/87
Muscatine Flying Service	4/87
Reeves Aviation, d/b/a Reeves Air	5/87
Cash Air	7/87
Custom Aviation, Inc. d/b/a Desert Sun Airlines	12/1/87
Air Maryland, Inc.	12/4/87
Air Link Airways, Inc.	2/12/88
Northeast Jet, Inc.	2/22/88
Spicer Aircraft, Inc.	2/23/88
Flight Group, Inc.	2/25/88
Plymouth Air Services	3/3/88
Midwest Exec, Inc.	3/18/88
Rio Airways, Inc.	3/26/88

OPERATOR	*DATE*
Exec Express, Inc.	4/9/88
Charter Flights, Inc.	5/13/88
Ameriflight, Inc.	6/17/88
Troy Air, Inc.	
Armstrong Air Service, Inc.	8/16/88
Prompt Air, Inc.	8/19/88
Yute Air Alaska, Inc.	9/24/88
I.J.A., Inc. d/b/a Northeast Jet, Inc.	9/30/88
Adios Air Limited	11/3/88
Air Ruidoso, Ltd.	2/13/89
Channel Flying, Inc.	5/20/89
Prime Air, Inc.	6/6/89
Alyeska Air Service, Inc.	7/6/89
Seagull Air Service, Inc.	8/9/89
West Air Express, Inc.	8/15/89
Mid-Plains Corporation	9/27/89
Glacer Bay Airways, Inc.	10/13/89
Alaska Island Air, Inc.	11/13/89
What Could Have Been, Inc. d/b/a Slink Air Service	1/4/90
Coffeyville Aircraft, Inc.	3/19/90
T & T Aviation, Inc.	3/16/90

Chief Executive Officer - CEO
Director of Operations - DOP
Director of Maintenance - DMT

Ford Aire d/b/a Susquehana Airlines: Revoked 4/85

CEO Bernard C. Ford
DOP Robert E. Corey
DMT Raymond Gardner

The Chief Executive Officer, Bernard C. Ford, was enjoined from participating in any air carrier's management. He is now employed in a non-managerial position for an air carrier named Mall Airways. We have no record of the air carrier's other management personnel being employed in management positions for any other air carrier.

NAL: Revoked 8/85

CEO Robert E. Wagenfeld
DOP Curt Batten
DMT Paul Crumley

The revocation stemmed from the operator's poor financial condition. NAL had no airplanes or flightcrews and was reluctant to surrender its certificate. We then revoked the certificate because they did not have the personnel or equipment required by the rules to operate. The Director of Operations is now employed as a check airman for an air carrier. The Director of Maintenance is employed as the Director of Quality Control for another air carrier.

Northland American Inc.: Revoked 8/85

CEO Jack Johnson
DOP John Wasvedt
DMT Dan Johnson

The operator recertified some time after the revocation. It later ceased operation after the CEO, Jack Johnson, died while serving as the pilot in command of a Part 135 flight by the operator. We have no record of the air carrier's other management personnel being employed in management positions for any other air carrier.

Southeast Air Charters: Revoked 8/85

CEO Joseph Demaria
DOP Kenneth E. Torano/Robert N. Alford
DMT John Wrobleski

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Southeast Air Cargo, Inc.: Revoked 8/85

DOP Esteban Echevarria
DMT Anthony Devino

We have no record of the air carrier returning to operation or the carriers' Directors of Operations and Maintenance being employed in management positions for any other air carrier. Data on the CEO are incomplete in our records. Further research will be done to develop this information and the data will be supplied to the Subcommittee when it becomes available.

U.S. Air Transit: Revoked 8/85

We have no record of the air carrier returning to operation. Data on the CEO, DOP, and DMT are incomplete in our records. Further research will be done to develop this information and the data will be supplied to the Subcommittee when it becomes available.

Executive Aviation Inc of Detroit: Revoked 9/85

CEO Richard Horvarter
DOP Lee J. Harper
DMT Lee J. Harper

The CEO at the time of revocation was Richard Hovarter - he also owned Falcon Air and Jetstream (two other Part 135 operators) at the same time. The revocation was for intentional falsification. Mr. Hovarter started another air carrier operation in Miami, Florida (Universal Airlines) that he subsequently sold to Walter Cooke (see Bard Air Corp). Mr. Cooke also later purchased and still operates Jetstream. Mr. Horvarter died in an air taxi Lear Jet crash in 1989 while serving as a pilot. Data on the DOP and DMT are incomplete in our records. Further research will be done to develop this information and the data will be supplied to the Subcommittee when it becomes available.

Falcon Air: Revoked 9/85

CEO Robert F. Anthis
DOP John W. Grow
DMT Gary Bingham

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Tomahawk Airways Inc.: Revoked 10/85

CEO William G. Walton
DOP William G. Walton
DMT William G. Walton

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Kingfisher Air Service-Air Safari: Revoked 11/85

CEO Richard V. Hurley

Kingfisher is currently an active air taxi. We have no record of the carrier's Chief Executive Officer being employed in management positions for any other air carrier. Data on the DOP and DMT are incomplete in our records. Further research will be done to develop this information and the data will be supplied to the Subcommittee when it becomes available.

Papillon Helicopter, Ltd.: Revoked 1/86

CEO Elias Halverson
DOP Mike Patton/Edward Hennessy
DMT Martin Doss

Papillon was recertified as an air carrier in January 1989, with the same Chief Executive Officer and Director of Maintenance that were employed during the period of revocation. Data on the DOP are incomplete in our records. Further research will be done to develop this information and the data will be supplied to the Subcommittee when it becomes available.

Bard Air Corp.: Revoked 2/86

CEO Walter E. Cooke
DOP Gerald C. Logan
DMT Dennis Lehr

Bard Air's certificate was revoked for falsification of aircraft and trip records. The Chief Executive Officer, Walter E. Cooke, was permanently enjoined from acting in a management capacity for Bard Air and enjoined from acting in a management capacity for any other air carrier for one year. He subsequently acquired controlling interest in Jetstream, Inc., after one year prohibition passed. The Chief Pilot, Kenneth Pogue, was enjoined from serving in any capacity for Bard Air and from any controlling interest in any air carrier for one year. Mr. Pogue is currently the airport manager of the Oakland/Troy Executive Airport, Troy, Michigan. We have no records indicating the Director of Operations or the Director of Maintenance are employed in management positions for any other air carrier.

Mid America Airways Inc.: Revoked 8/86

CEO Donald G. Fleischman
DOP William Dale Hillin
DMT Jerald E. Slough

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

TriStar Transportation Inc.: Revoked 11/86

CEO Von R. Trimble, Sr.
DOP Joseph L. Phillips
DMT Joseph L. Phillips

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Spectrum Helicopters Inc.: Revoked 11/86

CEO John Michael Boyd
DOP Glen Wentzel
DMT Joseph Cina, Jr.

The revocation was taken as a part of an investigation into a fatal air taxi helicopter crash into the Hudson river and involved maintenance practices. The CEO was John Michael Boyd. He was enjoined from any management involvement of an air carrier. He is now employed for Waterfront Airways in a non-management position.

The Director of Operations was Glen Wentzel. He was enjoined from any management involvement of an air carrier, and does not hold one now, to our knowledge. He was arrested for stealing two US Army helicopters which were found on the premises of Spectrum Helicopters during the investigation. He was not tried because the Statute of Limitations expired on the theft before the aircraft were discovered.

The Director of Maintenance was Joseph Cina, Jr. He was enjoined from any management involvement of an air carrier, and to our knowledge does not hold such a position.

Buffalo Express Airlines Inc.: Revoked 1/87

CEO David Broderdorf
DOP David Broderdorf
DMT James Cornwell

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Conn Aire Inc.: Revoked 1/87

CEO Frank D. Frazier
DOP Thomas H. Stevens
DMT James O. Perry

The Conn Aire certificate was surrendered in March 1990. The Chief Executive Officer, Frank D. Frazier, appears to be employed by Corporate Air Fleet as their Chief Executive Officer. We have no records indicating the Director of Operations or the Director of Maintenance are employed in management positions for any other air carrier.

Central Air Charter Chicago, Inc.

CEO Michael T. Norkus
DOP Stuart E. Egler (Aegler)
DMT Michael T. Norkus

The record provided indicated this carrier was revoked in 1987. We contacted the certificate holding district office who stated the operator, while the subject of several enforcement investigations, has never been revoked. Also, they state that a thorough review of all information on the carrier revealed no evidence that a revocation or suspension action was ever even considered.

Gold Coast Air, Inc.: Revoked 2/87

CEO Paul M. Gundersen
DOP Paul M. Gundersen
DMT Tom McCray

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Mid State Executive Helicopters, Inc.: Revoked 2/87

CEO Jack R. Hereth
DOP Richard L. Santmyer

We have no record of the air carrier returning to operation or the carrier's Chief Executive Officer or Director of Operations being employed in management positions for any other air carrier. Data on the DMT are incomplete in our records. Further research will be done to develop this information and the data will be supplied to the Subcommittee when it becomes available.

Muscatine Flying Service: Revoked 4/87

CEO Loel K. Letts
DOP Loel K. Letts
DMT Victor Taylor

After revocation, Muscatine obtained certification as an agricultural operator with the combined position of Chief Executive Officer and Director of Operations remaining filled by Mr. Loel K. Letts. (FAA has no rules speaking to the acceptability of management personnel for agricultural operators.) We have no records indicating the Director of Maintenance is employed in a management position for any other air carrier.

Reeves Aviation: Revoked 5/87

CEO Douglas E. Reeves
DOP Douglas E. Reeves

We have no record of the air carrier returning to operation or the carrier's Chief Executive Officer or Director of Operations being employed in management positions for any other air carrier. Data on the DMT are incomplete in our records. Further research will be done to develop this information and the data will be supplied to the Subcommittee when it becomes available.

Cash Air: Revoked 1987

CEO Reynauld Paul Crete
DOP Reynauld Paul Crete
DMT Reynauld Paul Crete

Cash Air's certificate was revoked for intentional falsification. Reynauld Paul Crete was the Chief Executive Officer and Director of Operations and Maintenance. The Chief Pilot, Kenneth E. Roberts, had his pilot certificate revoked as a result of the investigation. Further data on Mr. Crete is incomplete in our records. Additional research will be done to develop this information and the data will be supplied to the Subcommittee when it becomes available.

Custom Aviation, Inc.: Revoked 12/87

CEO Ralph J. Rina
DOP Ralph J. Rina
DMT Kevin Watros

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Air Maryland, Inc.: Revoked 12/87

CEO Robert N. Cadwalader
DOP Robert N. Cadwalader
DMT James J. Dempsey

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Air Link Airways, Inc.: Revoked 2/88

CEO Barry Sprague
DOP Fred Shanhard
DMT Leonard Mallet

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Northeast Jet, Inc.: Revoked 2/88

CEO Dick Kaiser
DOP Dick Kaiser
DMT George Tomasic

This case is difficult to keep straight because of the sequence of events and organizations with similar names involved. The agency initiated action to revoke the operator's certificate in February 1988 (the date shown above), with the resolution of all legal appeals occurring the following September. We believe the operator name and date for an action identified as "Northeast Jet, Inc. dba Private Jet Services: Revoked 2/88," is part of the same action and so we have included that reference in this response.

The terms of the revocation prohibited the management of the operator from exercising management authority with any air carrier for one year. The owner of I.J.A., Mr. Earl Holtz,

occupied the combined positions of Chief Executive Officer and Director of Operations. I.J.A. was recertified in December 1988, with Mr. Holtz as majority stock holder but with no management involvement. The certification started using the business name "Northest Jet, Inc., dba Private Jet Services," and reverted to its original name mid-way in the process. We were recently advised that I.J.A.'s Chief Executive Officer/Director of Operations resigned early September 1990 and was replaced by Mr. Holtz.

We have no record of the Director of Maintenance, Mr. George Tomasic, being employed in a management position for any air carrier subsequent to the revocation. Two other individuals were involved in the cause of revocation; the Chief Pilot, Mr. Barrett Panasik, is currently employed as a pilot for I.J.A., and the Vice President/Dispatcher, Ms. Meta Buttenheim, is employed in a non-management position for Richmore Aviation of Albany, New York.

During the investigation leading to revocation, Mr. Holtz voluntarily surrendered the certificate of a Repair Station he owned by the name of Northeast Jet Center, Ltd. The agency was recertified in February 1989, with Mr. Holtz as President. The agency went out of business and again voluntarily surrendered its certificate in February 1990. The FAA has no regulatory restrictions regarding the acceptability of management personnel used by repair stations.

Spicer Aircraft, Inc.: Revoked 2/88

CEO Michael W. Spicer
DOP Michael W. Spicer
DMT Michael W. Spicer/Melvin L. Kabler

Spicer Aircraft was recertified in April 1988. Mr. Michael Spicer was the owner and filled a management position in the company. He was prohibited from involvement in maintenance functions as part of the recertification agreement. As a result, another individual serves as the Director of Maintenance.

Flight Group, Inc.: Revoked 2/88

CEO Thomas O. Miller
DOP Thomas O. Miller
DMT Frank M. Chesonis

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Plymouth Air Services: Revoked 3/88

CEO William B. Thurber
DOP William B. Thurber
DMT George Bevilacqua

We have no record of the air carrier returning to operation or the carrier's Chief Executive Officer/Director of Operations being employed in a management position for any other air carrier. The Director of Maintenance, Mr. George Bevilacqua, works for an air taxi operator in Puerto Rico. His position there was reviewed, in light of the Plymouth case, and accepted by the FAA.

Midwest Executive, Inc.: Revoked 3/88

CEO Russell Seaver
DOP Robert Blade
DMT Rex Smith

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Rio Airways, Inc.: Revoked 3/88

CEO F. E. Howe
DOP Leonard C. Gulig
DMT Mike Payne

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Exec Express, Inc.: Revoked 4/88

CEO Philip H. Trenary
DOP Philip H. Trenary
DMT Curtis Grindstaff

The Chief Executive Officer, Mr. Philip H. Trenary, is currently permitted to serve in the same position for Exec Express II, Inc. We have no records indicating the Directors of Operations or Maintenance are employed in management positions for any other air carrier.

Charter Flights, Inc.: Revoked 5/88

CEO Mike Wiskus
DOP Mike Wiskus
DMT Mike Wiskus

Mr. Michael Shane Wiskus was filling all management positions at the time of revocation. Mr. Wiskus was permitted to start a new operation titled Charter Flight Services in which he was prohibited from exercising any managerial control. He was later found in non-compliance with the agreement during an investigation into the new company's operation practices. Both the operating certificate of the company and Mr. Wiskus' pilot certificate were revoked.

Ameriflight, Inc.: Revoked 6/88

CEO F. E. Howe
DOP Leonard C. Gulig
DMT Mike Payne

Ameriflight was recertified after the revocation, retaining the Chief Executive Officer. We have no records indicating the Directors of Operations and Maintenance are employed in management positions for other air carrier.

Troy Air, Inc.: Revoked February 1989

CEO Troy Hodges
DOP Troy Hodges
DMT Thomas Geary

We have no record of the air carrier returning to operation or the carrier's Chief Executive Officer/Director of Operations being employed in a mangement position for any other air carrier. The Director of Maintenance, Thomas Geary, is now employed in the same position for Peninsula Airways, Inc., after FAA review and acceptance.

Armstrong Air Service, Inc.: Revoked 8/88

CEO Richard Armstrong
DOP Neil C. Armstrong
DMT Larry Wissbaum

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Prompt Air, Inc.: Revoked 8/88

CEO Alan Koffman
DOP Alan Koffman/John Egloff
DMT Keith Labahn/Bobbie Lee Culberson

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Yute Air Alaska, Inc.: Revoked 9/88

CEO Philip Bingman
DOP Philip Bingman
DMT David Williams

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

I. J. A., Inc dba Northeast Jet, Inc.: Revoked 9/88

See Northest Jet, Inc.

Adios Air, Itd.: Revoked 11/88

CEO Grant D. Carrick
DOP Grant D. Carrick
DMT Chuck Illiff

We have no record of the air carrier returning to operation. The carrier's Chief Executive Office/Director of Operations, Grant D. Carrick, is now the Chief Executive Officer for "Carrick, Grant D. dba Aerostar Charter". We have no records indicating the Director of Maintenance is employed in a management position for any other air carrier.

Air Ruidoso, Ltd.: Revoked 2/89

CEO Helene G. McCoy
DOP George Matz

We have no record of the air carrier returning to operation or the carrier's Chief Executive Officer or Director of Operations being employed in management positions for any other air carrier. Data on the DMT are incomplete in our records. Further research will be done to develop this information and the data will be supplied to the Subcommittee when it becomes available.

Channel Flying, Inc.: Revoked 5/89

CEO Kenneth H. Loken
DOP F. J. Parsons
DMT Raymond L. Landingham

We have no record of the air carrier returning to operation or the carrier's Directors of Operations or Maintenance being employed in management positions for any other air carrier. The Chief Executive Officer, Kenneth H. Loken, is now the Director of Maintenance for Loken Aviation.

Prime Air, Inc.: Revoked 6/89

CEO William R. Langley
DOP James O. Aufrane
DMT Kevin L. Beck

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Alyeska Air Service, Inc: Revoked 7/89

CEO Kenneth D. Triplett
DOP Kenneth D. Triplett
DMT Kenneth D. Triplett

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Seagull Air Service, Inc.: Revoked 8/89

CEO James T. Crace
DOP Tim Crace/James T. Crace
DMT Bruce McWhorter/Edward J. Bartnicki

Seagull is currently an active air carrier. Data on the CEO, DOP, and DMT are incomplete in our records. Further research will be done to develop this information and the data will be supplied to the Subcommittee when it becomes available.

West Air Express, Inc.: Revoked 8/89

CEO Michael G. Hyles
DOP Michael G. Hyles
DMT Ken Ibsen

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Mid-Plains Corporation: Revoked 9/89

CEO Michael H. Thien
DOP Michael H. Thien
DMT Darwin M. Ulledahl

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Glacer Bay Airways, Inc.: Revoked 10/89

CEO Arthur D. Hayes
DOP Arthur D. Hayes
DMT Dennis Cooley/Donald W. McGugin

Glacier Bay is currently an active air carrier that recertified after revocation. Data on the CEO, DOP, and DMT are incomplete in our records. Further research will be done to develop this information and the data will be supplied to the Subcommittee when it becomes available.

Alaska Island Air, Inc.: Revoked 11/89

CEO Lloyd Roundtree
DOP Dana Roundtree
DMT John Grogan

Alaska Island Air is currently an active air carrier that recertified after revocation. Data on the CEO, DOP, and DMT are incomplete in our records. Further research will be done to develop this information and the data will be supplied to the Subcommittee when it becomes available.

What Could Have Been, Inc.: Revoked 1/90

CEO Patricia Deter

We have no record of the air carrier returning to operation or the Chief Executive Officer being employed in a management position for any other air carrier. Data on the DOP and DMT are incomplete in our records. Further research will be done to develop this information and the data will be supplied to the Subcommittee when it becomes available.

Coffeyville Aircraft, Inc.: Revoked 3/90

CEO Roy K. Hartwig
DOP Roy K. Hartwig
DMT Brian Robertson

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

T & T Aviation, Inc.: Revoked 3/90

CEO Thomas L. Krehmeier
DOP Thomas Krehmeier
DMT Chas McConnell

We have no record of the air carrier returning to operation or the carrier's management personnel being employed in management positions for any other air carrier.

Mr. ANDERSON. Mr. Walden, if an owner is motivated to break Federal Air Regulations for economic gain, in addition to emergency revocation, why doesn't the Agency also use civil penalties to recapture some of the illegally-made money? Because if you take away the economic incentive, doesn't that serve as a strong deterrent for someone to know that not only does he run the risk of losing his business, but also losing his profit?

Mr. WALDEN. I agree with the Chairman's statement that civil penalties are a necessary deterrent among the Agency's enforcement tools. Generally speaking, however, when we take revocation action the punitive effect is so significant to the carrier and those who work for the carrier that the Agency's judgment is that a civil penalty is not necessary to achieve the deterrent effect.

Our policy is not that it is never to be considered. Each case is evaluated on its facts. I am not aware, however, of the Agency exercising its authority to seek civil penalties and revoke a carrier's certificate in the two years I have been Chief Counsel. But it is a matter that is evaluated on its facts each time we determine that a revocation action is appropriate for a carrier.

Mr. ANDERSON. Mr. Broderick, do you feel that aviation inspectors are properly trained to conduct criminal investigations?

Mr. BRODERICK. No, sir, they are not trained to conduct criminal investigations.

Mr. ANDERSON. Mr. Broderick and Mr. Walden, do you agree that the Department of Transportation Inspector General has the authority to investigate possible criminal investigation, such as fraud, committed by airline operators?

Mr. WALDEN. The relative division of authority between the Office of Civil Aviation Security, the DOT Inspector General's Office, and the various U.S. attorneys and their investigative arm, the FBI, is something that is under review right now in the Department of Transportation and, specifically, the FAA.

The current FAA orders—2150.3(a), 1600.38(b)—and the DOT orders that concern the Inspector General's authority are not as well written and as clear as I'd like to see them. And so the policy that we will be looking into—the policy issue will be when is it appropriate to involve the Inspector General's Office in a matter that arguably suggests a violation of Federal criminal law.

Our historical practice, Mr. Chairman, has been that when, in the course of a regulatory enforcement investigation, we have evidence to suggest a violation of Federal criminal law, we will evaluate that case and determine on its facts whether the matter should be referred to the appropriate United States Attorney. But I will say probably in a few cases over the last couple of years we have benefited from the work of the Inspector General's Office on an investigation involving an air carrier whose regulatory violations may also have violated Federal criminal law.

It is something that is under review. We will be working with the Inspector General's Office, the General Counsel's Office, and with the Justice Department to determine the appropriate policy in that area.

Mr. ANDERSON. Mr. Broderick, in the last three years there have been 17 emergency revocation orders that cited falsified or fraudu-

lent record-keeping; yet, at no time was the Inspector General ever called in to assist in the investigation. Why?

Mr. BRODERICK. Let me give you an answer from my viewpoint, sir. The FAA flight standards work force, our aircraft certification people and their field counterparts perform investigations. When they determine that a violation of the regulations may have occurred, they begin consultations with the staff attorneys that are there to support us.

We would rely on the attorneys to make a decision as to whether or not to go further in calling other people in.

Perhaps Mr. Walden would like to respond.

Mr. WALDEN. Well, again, the FAA will determine, through its investigation, whether the alleged violations of the Federal Aviation regulations also support or suggest a violation of Federal criminal law. We have adequate investigative resources to make the case to support a revocation action, a suspension action, or a civil penalty action.

We are not well-equipped to investigate criminal violations when the elements are different from regulatory violations, and in those cases it would be appropriate to involve someone who is well-equipped to do that, whether it is the FBI or the Inspector General's Office.

Again, that matter is under review right now, and we are not prepared today to determine in what cases it is appropriate for one investigative arm of the executive branch to involve itself and in what cases the other one is appropriate.

Mr. BRODERICK. Mr. Chairman, I would add parenthetically that, while I certainly wouldn't question the data that you have been provided, there have been cases that I know of with regard to, for example, repair station certificates and others, and airline investigations, where criminal investigations have arisen either as a result ofthe FAA's investigation or coincident with it. So it wouldn't be accurate to say that the FAA never participates in or refers matters to criminal investigative authorities, but I would take as accurate your comment that, of those listed, we hadn't gone to the IG.

Mr. ANDERSON. You have never called in to assist in the investigation——

Mr. BRODERICK. In those cases. I don't have any data to disagree with that, sir.

Mr. ANDERSON. Mr. Broderick, how can you explain the fact that in a ten-month period Northeast Jet received a clean bill of health from the FAA in 88 inspections, but two months after the last one different inspectors found enough violations to close the company down?

Mr. BRODERICK. The people managing the 88 inspections didn't do the right job. As part of our investigation of Northeast Jet we followed up with a number of other investigations, both specifically directed at the people involved and with regard to the office management, as a whole. You will find, I think, that the record shows that the first thing we did was straighten out the problems we had with Northeast Jet specifically through an emergency revocation. We very quickly thereafter replaced the top management of that

office. Since then, two of the three people involved have retired; the third is no longer in a supervisory position.

Mr. ANDERSON. Mr. Broderick, you outlined a process which seeks to minimize the possibility that oversight of a carrier will be unduly influenced by just one individual's actions. Now, is that process being changed in light of its apparent failure in the Northeast Jet case?

Mr. BRODERICK. I think, Mr. Chairman, the fact is that following the Northeast Jet situation it was changed. We have done a number of things since then which strengthen both the oversight and the management of our field inspection work force, not the least of which has been assistance, through the Appropriations Committees of the Congress, in adding staff. Frankly, we had decimated the evaluation and oversight work force that we had internally in the FAA in the mid to late 1970s, and it has now been restored to a point where it is an effective and proactive organization, not only within flight standards, but within the other safety-related organizations in the FAA.

Mr. ANDERSON. Mr. McEwenn.

Mr. MCEWEN. Thank you, Mr. Chairman.

Thank you both for coming today.

Can you tell me what would be the average number of inspections for part 135 carriers annually?

Mr. BRODERICK. Mr. McEwen, for the last year, if memory serves, we did nearly 310,000 inspections. About 85 percent of those were directed at either part 121 or 135 carriers.

If you take 250,000, which is about that number, and divide it by about 4,000, I think you'd probably find an average which is something like 100. It could be a lot more for a large airline like American Airlines, in which case you might run up into over 1,000. For a much smaller carrier, it might only be a handful because of the fact that they are a very small carrier with very limited operations. But an average would be somewhere near 100 for all airlines throughout the country.

Mr. MCEWEN. Explain to me what an inspection is. I have difficulty in my own mind seeing how you have two inspections a week. Are you saying if you check four tires that is four inspections?

Mr. BRODERICK. Well, it, in fact, is a broad range of things. The kind of thing I am talking about is a reportable work unit that is logged in our computer, and it can be everything from literally simply just checking the license and medical and airworthiness certificate of a private airplane that lands at a local airport, to something that involves major activity with several people for several days. So it is a wide variety of things.

But there is a specific work program that is updated every year that requires people to do a minimum number of operations, maintenance, and avionics inspections for each one of the aviation businesses in their geographical area. That is the fundamental way we manage the inspection and oversight in the FAA. It is something which gives national emphasis to various areas of compliance that we want to emphasize for the current year, and then it passes that guidance on down to the lowest organization level in the field.

Mr. MCEWEN. I'm just trying to get a handle on it. I talked to a major carrier who said they were inspected about three times a

year. That doesn't make sense to me. Twice a week I have difficulty——

Mr. BRODERICK. Well——

Mr. MCEWEN. I don't understand why a company with 12 airplanes is inspected twice a week and—around 1.4 times a week in order to get 88 inspections a year. I don't understand what is going on.

Mr. BRODERICK. I think when you asked the major carrier about inspections they were probably thinking of a team of people for many days, or perhaps many weeks, doing what we would call normally an "in-depth" inspection of a particular facet of their business.

What I was speaking of was literally the work that is done by our roughly 2,500 inspectors in the field over the course of a year. I think it is a semantic——

Mr. MCEWEN. I'm trying to understand where the 88 comes from. What is it?

Mr. BRODERICK. In this kind of a case it would have been generally 88 visits by a person for anywhere from an hour to a day to——

Mr. MCEWEN. That's 88 visits?

Mr. BRODERICK. Either to the company or to one of their airplanes.

Mr. MCEWEN. That's more than once a week.

Mr. BRODERICK. Yes. I would expect—yes. Just mathematically that's what it seems to be. Yes.

Mr. MCEWEN. So the guy is going to be hanging around there a fair amount of time, right?

Mr. BRODERICK. Yes. It was a local airline very close to the office.

Mr. MCEWEN. And suddenly you changed inspectors. So this fellow you say is no longer with us? The one who hung around there every week and saw nothing?

Mr. BRODERICK. We had, Mr. McEwen, quite clearly a problem with the senior management in the office. Quite frankly, I think there was a complete difference in philosophy between what we—and I think you and the public—expected of their surveillance and oversight of an airline and the way they were applying things. That's not to say that the people were in any way corrupt or evil.

Mr. MCEWEN. No.

Mr. BRODERICK. They had an honestly-felt belief that they——

Mr. MCEWEN. A different philosophy.

Mr. BRODERICK [continuing]. Were strictly coach and no cop at all. They did not have any kind of balance in the way they approached their job. That's why we changed management.

Mr. MCEWEN. I love that. Thanks.

Mr. ANDERSON. Mr. Borski?

Mr. BORSKI. Thank you, Mr. Chairman.

Mr. Broderick, were you here for yesterday's hearing?

Mr. BRODERICK. No, I wasn't, sir.

Mr. BORSKI. Were you informed of the testimony of any of the witnesses before us yesterday?

Mr. BRODERICK. Yes. I talked with two of the three FAA witnesses afterwards.

Mr. BORSKI. How about the former employees of Northeast Jet?

Mr. BRODERICK. I read the news accounts and their testimony was summarized.

Mr. BORSKI. What do you think about whistleblowers, in general? Do you have an opinion on it one way or the other?

Mr. BRODERICK. Absolutely. I think whistleblowers are very necessary. That is, in large part, how we find many of our leads.

Mr. BORSKI. The former employees who testified yesterday had some pretty harsh things to say. One of them said that it is frustrating and seems immoral that Mr. Holtz is back in business as usual. My concern is, if we have people who are willing to come forward and give what I consider to be very damaging testimony, and then feel as though they did it for nothing, that it would be very difficult to get future people to come forward. What would you say to that? What would you say to a woman who thinks it is immoral that Mr. Holtz is back in business as usual?

Mr. BRODERICK. I would say that Mr. Holtz and the people that worked at Northeast Jet paid a very severe penalty for the regulatory infractions that we accused them of. There are over 80 families who had their wage earners put out of work for 18 months. In fact, they are still out of work. There are only a few people that work there now.

Very few companies or people are able to withstand that kind of penalty. If we were talking about an organization that was one of our major air carriers and not Mr. Holtz, but the chairman of the board of United or American or Delta, I don't think anybody would question the severity of an 18-month penalty.

This happened to be a small business. It is coming back as a minute business. I think that people deserve a second chance if they are willing to sign up for the kind of strict oversight and extra regulatory conditions that we have imposed on Mr. Holtz. We expect him to toe the line, and we won't tolerate any violations of the regulations in the future.

Mr. BORSKI. Mr. Broderick, you stated that a number of families were involved. Do you know how many of those families are working for Mr. Holtz' new firm?

Mr. BRODERICK. Very few, because he has got a very small number of employees right now.

Mr. BORSKI. So the employees received a pretty tough penalty. I don't think there is much question about that. They are out of work. What about Mr. Holtz? He's the only one who survived here.

Mr. BRODERICK. Well, I think the families survived, as well. The penalty that they received was the kind of economic penalty that was shared by Mr. Holtz. Here was a thriving company that he owned with 100 or so employees, 12 airplanes or more. He has now got a handful of employees and one Leer jet that he is using. I wouldn't look at that as something that most people would want to go through.

Mr. BORSKI. I don't mean to disagree with that at all, but I think the point that I am trying to make is that the employees are out of work. They are not back in business. They had to scurry. Some people may still be out of work. If you listen to the testimony and if it is accurate and true, Mr. Holtz—or his operation with his jet—put public safety at great risk.

Mr. BRODERICK. I certainly agree with that, and he paid a very severe price for it. It is sad and unfortunate that other employees of his company paid a similar price.

Mr. BORSKI. I want to go back to the money part of it. If we could assume that another carrier were to do the same thing—it would not necessarily be Northeast Jet—and I understand your point that a one-year revocation is kind of like the death penalty, but what about when it is not? What if you could make enough money. What if you could make so much money working around the law that you can sit back and wait a year and then come back in the business? Does it make any sense to try and get some of the money back?

Mr. BRODERICK. It might under certain circumstances. Let me point out that when we decided two years ago, or thereabouts, to permit Mr. Holtz to ask for readmission into the aviation business, these kinds of things were considered. Had we had evidence of the type that you are referring to, I suspect, based on my knowledge of the people involved, that their judgment would have been different and the penalty recommended may have been different and may have been along the kinds of lines that you are thinking. But the facts weren't there in this case, and so that's why they made a different judgment, and one that I think was appropriate.

Mr. BORSKI. Why weren't these facts out then? Are you guys shorthanded? Did you try to talk to the former employees who have these problems? Why didn't you have this information?

Mr. BRODERICK. No, sir. I didn't mean that we didn't have the information. We did have the information, and the information was not like the kind of hypothetical situation that you had developed. We have absolutely no information to indicate that there were egregious profits made or large benefits that accrued from violation of the regulations. In point of fact, if you take a look at what regulations were violated and what the actual business situation is for an air taxi of that type, while it may have made them survive a little bit better or a little bit longer, we're not talking about people making thousands, tens of thousands, or hundreds of thousands of dollars benefiting by fraudulent records or violating the regulations. It is just not that kind of situation.

Mr. BORSKI. Let me ask about the principle involved in Northeast Jet again—and perhaps you can let me know how this works. Northeast Jet is out of business. Mr. Holtz, as a principal, is back into a new business. He has to meet a new set of rules and regulations that you developed. I asked this question of your local manager yesterday. Does the past record have any bearing on the recertification?

Mr. BRODERICK. Certainly it did, at least by virtue of the fundamental ground rules that were laid out and the additional requirements that were laid down in the written involvement between the FAA and Mr. Holtz that permitted him to reapply and have his application entertained.

It is inevitable also that the people involved, knowing his background and knowing the background of Northeast Jet and the people that were involved before, are going to be looking very closely not only at the things that the letter of the agreement calls out,

but in any other areas that one might think could be shaded in order to gain some kind of an advantage.

So I think that you have the explicit requirement that we look at more and different things more frequently, and then we have the human facts that we know of the situation with these people and we are going to be keeping an even sharper look on their compliance than would ordinarily be the case, given the history.

Mr. BORSKI. So in this case, for instance, Mr. Holtz would have been given several more tough standards to meet before he were granted a license again?

Mr. BRODERICK. Yes, sir. Not only standards, but his training program is different and the kinds of emphasis that it puts on the employees' responsibility. There is an agreement written between the counsel and Mr. Holtz outlining the major points of difference.

Mr. BORSKI. As I understand it from Mr. Holtz' testimony yesterday, though, he claims that his only fault was that he had poor people working for him, not that he did anything wrong. If that is the case, then why would we think that maybe he is rehabilitated or contrite or going to do a better job next time if he never admitted to any of the problems in the first place?

Mr. BRODERICK. Mr. Borski, I haven't had a chance to review the testimony in detail, and I can understand why that general picture might have been conveyed, but specifically, without talking about yesterday's testimony, I can tell you that we have a written file on this case which indicates quite to the contrary.

Certainly, Mr. Holtz does allege—and we agree—that some of the employees of Northeast Jet in the past did commit regulatory violations which shouldn't have been committed. And I'm sure that Mr. Holtz feels less responsibility for that than perhaps we would attribute to him and expect of him. But it is not true that we believe or that he has asserted that he is completely blameless in this situation. In fact, I would expect quite the contrary. I think he recognizes the need to manage this company differently than the previous company he had.

If he didn't recognize that, if we didn't think he recognized that, he wouldn't be in business today.

Mr. BORSKI. Is there anything more that Northeast Jet could have done that was wrong that could possibly say that this case was so bad that when it comes time for his revocation we are going to hold him off at least another six months or another year? The past is past once that is over with; is that pretty much it?

Mr. BRODERICK. Mr. Borski, I think it is—I hate to speculate on things like that. Let me just say that I can conceive of situations that were different that might lead to different recommendations from our field people that we would support, but I wouldn't want to give you a list and say if you do this, this, this, and this, that's the penalty, and if you do these extra things we add six months. You have to evaluate each situation in the context of the time and the place and the facts.

Mr. BORSKI. To your recollection, has anyone ever been barred for more than a year or not had their recertification granted?

Mr. BRODERICK. In fact, many people—most people, as I said—are out of the business. They cannot afford to come back. They cannot

afford to try to. There are a number of people who have. We don't keep records on attempts to come back in that were denied.

Mr. BORSKI. Did you see a difference at all, sir, in people who cannot get back into the business and choose to stay out and one who can scurry around and come back? Does that make you want to look at the sanctions a little differently? If you say at one point that a one-year penalty is like a death penalty and most people get out of business, does it make you want to look at the ones who can get back and say that maybe we have to reexamine this and maybe there are tougher things we should look at?

Mr. BRODERICK. Mr. Borski, I don't think that we or our inspectors feel constrained and obligated to allow people to come back after one year or six months or whatever the penalty happens to be. The people that we let back into business are people who have convinced us that they, in fact, can do business safely and in compliance with the regulations.

We are not victimized, as it were, by regulations which are insufficient. I think we have quite a bit of authority. Frankly, the Administrator has extraordinary powers to promote aviation safety and ensure that public transportation is performed with the highest degree of safety. So I don't see us in a situation where we need to have somebody solve a problem for us.

Mr. WALDEN. If I may add, from the perspective of a lawyer who would defend a case brought if the Agency denied an application for a certificate, it is true that our authority is ample, but we do need a present basis for determining if someone lacks the qualifications to hold a certificate. Past conduct, by itself, that we can't say is still in the mind and the disposition of the operator or the owner, will not be sufficient to withstand judicial scrutiny.

Mr. BORSKI. Mr. Broderick, let me ask a question I asked earlier a little differently. Has anyone who reapplied been turned down?

Mr. BRODERICK. I honestly don't recall. No one comes to mind, although I would hate to say that the answer is yes or no. I don't know of any people.

Mr. BORSKI. I asked you a little earlier about whistleblowers, and I can tell you that the former employees from Iloltz who were here yesterday were extremely frustrated and very disappointed. I doubt very much—while I congratulate them for stepping forward, I doubt, quite frankly, that they would ever do that again if this is the kind of sanction that is going to be given out.

I wanted to ask you about some of the FAA people who testified yesterday. Sir, I would say that the people who represent FAA who were here yesterday were scared to death. I don't think they were frightened of the committee or of testimony that was going to be given, but I had the distinct feeling that they were afraid of someone else perhaps in the FAA who they have some disagreement with.

Our staff, in talking with some of your people, had a completely different response out in the field than what happened here yesterday. Our understanding was that the regional managers who looked into this felt that this company should be banned for ten years.

Can you tell me a little bit about how—I know you said earlier that on a team—and I understand that—there can be differences of

opinion and different feelings, and if someone is in charge, then ultimately the person in charge makes the decision. Why would someone who works for you tell our staffers that this company should be banned for ten years and then forget that before us?

Mr. BRODERICK. Well, I have talked with Dick Madden, Fred Leonelli, and Nick Sabatini, two of whom I know quite well. I don't know Dick Madden as well as the other two. I guess I have a somewhat different picture of their view of the discussions that were held with staff. The number ten years was batted around as a possibility, as was the five years that the Chairman talked about.

There was a decision made by the folks that one year was appropriate, and I am unaware of then or now any big controversy over that.

Let me say, sir, that I respectfully disagree a little bit about perhaps the nervousness of those folks. I think it is fair to say that only one of them had ever appeared in Congressional testimony before. It is not an experience that, for the first time, is one that is anything less than awe-inspiring. I think that that is what, in fact, you saw with them. Those three people are all in a direct line of reporting to me. I know them well. I know the people between myself and them, and there is no other management chain involved. I don't think they are afraid of anyone in the FAA.

Let me make one comment, if I might, sir, about the former employees and their characterization as whistleblowers.

I had an awful lot to do with the institution of this specific investigation because of information that I had received from a person that I would characterize as a whistleblower—not an employee of the company. We did not receive, during all of this time that we have discussed up until we got deeply into the investigation, any unsolicited information from any of the employees in the company. They may have talked with some of the people on site who, as I discussed with Mr. McEwen, were not what I would call the best managers of this kind of thing. But the fact of the matter is that we worked very quickly with our attorneys to grant them the appropriate guarantees against prosecution in a civil sense for assistance they gave us, and that is how we got their testimony.

I normally consider a whistleblower as one who comes forward and precipitates an investigation rather than one who is drawn into an investigation by the investigating authorities.

Mr. WALDEN. Also, in this case we conducted a formal proceeding under Part 13 which enabled us to compel some interviews by subpoena.

Mr. BORSKI. Mr. Broderick, I have two comments. First, the former employees who were here yesterday weren't nearly as nervous as the people who work for you. I don't think they have testified before the Congress before, either. And if I worked for Northeast Jet, who would I go to in the FAA? Would I go to the local manager who is coming around for drinks at the end of the day? I think what they did was go to a third party who perhaps went to you.

Mr. BRODERICK. That may very well be the case, sir.

Mr. BORSKI. I want to get back to the time limit here and how this works. Is it your decision, sir, as to how long?

Mr. BRODERICK. Ultimately it is the Administrator's decision, but we have a delegated authority so that in this particular case, Dick Madden, who is the manager of the field office in charge, would be making this kind of decision.

Mr. BORSKI. I'm sorry, sir. I couldn't hear you. Who was it?

Mr. BRODERICK. Dick Madden. The field office manager would make the first-level decision. It is really a recommendation that then comes up the chain. Myself and Mr. Walden do, in fact, review significant cases—this would have been considered a significant case—and we review it with the Administrator before we take action.

Mr. WALDEN. That's for an application for a certificate. In this case——

Mr. BORSKI. I'm talking about the revocation to start the process.

Mr. WALDEN. Oh, the initial certificate action?

Mr. BORSKI. Yes.

Mr. WALDEN. Yes. Certificate actions are brought into headquarters for coordination, and they are cleared by Mr. Broderick and myself, and also cleared by the Administrator's office.

Mr. BORSKI. I think I'm having a problem here that maybe I just don't understand.

Would you, Mr. Broderick or Mr. Walden, say to your people that five years is too much, we don't have precedent, we don't have any real reason to do that, we should just give them a one-year statement? Or is that a decision that—you are telling me that they came to that decision, themselves?

Mr. BRODERICK. Yes. That was a decision that—if you will, the papers that came forward for our review contained a one-year recommendation arrived at between the counsel and the flight standards technical people that were on this investigation project.

Mr. BORSKI. So if the counsel at one point said she felt that five years would perhaps be a proper term, she changed her mind, herself, not through you or Mr. Walden or the Administrator?

Mr. BRODERICK. In this case, yes. It could be, of course, that we could have recommended something different or directed something different, but in this case I don't believe there was any headquarters changing of the recommendation.

Mr. WALDEN. I'm not aware of any discussions that took place between Loretta Alkalay and headquarters officials, including myself and the counsel's office. They may have taken place. I just don't recall any discussions on that point.

It is frequently the case that the Assistant Chief Counsel's recommendation for enforcement action is discussed with the Chief Counsel's office, with myself, and with other people in the Regulations and Enforcement Division. There are discussions, and sometimes the concerns or issues raised lead the original recommendation to be revised. That may well have happened in this case.

But I'd like to stress the point that the agreement reached by the Eastern Region with Northeast Jet was something that is a victory for the agency because the matter had been resolved at that time, I believe—the emergency order of revocation. And so this was more than the agency normally would obtain from a revoked entity. That's separate—that took place before Northeast Jet came in and applied for a certificate. Those are two separate stages.

Mr. BORSKI. If one of your regional managers had suggested to us that he thought ten years—your counsel, I think, had indicated to our staff that she felt that ten years would probably be good, but that she would settle for five, and then ultimately came down to one, that's her personal decision and/or the regional people's personal decision, not any instruction or any guidelines? Could she have suggested five years if she wished?

Mr. BRODERICK. Sure. There isn't anything banning that. In her judgment in this case that was inappropriate, but there is nothing that says not to suggest five or two or whatever.

Mr. BORSKI. Could she have implemented five had she chosen to? I guess it is——

Mr. WALDEN. I don't believe so, Mr. Borski. I wanted to mention this point earlier. I think it is unclear whether the Agency can unilaterally impose a term of sitting out, if you will, because at any time after the emergency order of revocation has been imposed, the entity can apply for a new certificate, and the Agency is obliged under the law to consider whether that entity should be granted a certificate.

Mr. BORSKI. I think we are getting to the crux of the problem now.

Mr. BRODERICK. But, Mr. Borski, if I might, let me just– at the risk of confusing this thing—the revocation of the certificate is something that we are not talking about. What we are talking about with one year, five years, ten years, whatever it is, is an agreement reached outside of courtrooms on a piece of paper between the FAA and Mr. Holtz—counsel for Mr. Holtz.

So, while counsel is certainly right in terms of our unilaterally imposing that, that is not what we talked about here. This was an agreement reached. If five years had been recommended and we thought we could get that agreement and everybody thought it was appropriate, there is absolutely nothing, of course, in preventing us from so doing. We just didn't try it at the time for the reasons that it didn't seem appropriate to——

Mr. BORSKI. Let me go back so maybe I understand this better. Are you limited? The amount of revocation you can give is one year by law?

Mr. WALDEN. No.

Mr. BRODERICK. No, sir.

Mr. BORSKI. You can give more if you want?

Mr. BRODERICK. Not for a company. A revocation has no time limit specified.

Mr. BORSKI. Okay. But you can reapply in a year, and that's the law?

Mr. BRODERICK. No. That's only for an individual. That is for an airman or a mechanic, but that's not the case here. We are talking about a company. There is no specified time limit for re-application.

Mr. BORSKI. Mr. Walden, do you agree with that?

Mr. WALDEN. That's true.

Mr. BORSKI. Okay. So that the revocation was for a year. It could have been longer if the case had merit, in your opinion.

Mr. WALDEN. No, the——

Mr. BRODERICK. The revocation was permanent. It is something that is done and in the past. What we are now talking about is at what point we would entertain a reapplication, which is a voluntary agreement reached between the two parties, in addition to the revocation.

Mr. BORSKI. So the revocation is permanent. There is no time limit.

Mr. BRODERICK. Right.

Mr. BORSKI. Say a year——

Mr. BRODERICK. You don't get it back. It is not a suspension. It is a revocation.

Mr. BORSKI. And then you negotiate——

Mr. BRODERICK. In this case we did do that.

Mr. BORSKI [continuing]. As to how long——

Mr. BRODERICK. We normally don't.

Mr. BORSKI [continuing]. Before you can reapply.

Mr. BRODERICK. In this case we did that. We normally don't reach such an agreement. This is something over and above revocation, as Mr. Walden indicated. It is a victory for the Agency in the sense that we didn't have to deal with these people for three months or for six months or for nine months, as has been the case in the past.

Mr. BORSKI. So this is unusual? Is that what you——

Mr. BRODERICK. Yes. This is an unusual agreement which is more stringent than most, viewed on its face.

Mr. BORSKI. So then normally you can reapply in two days?

Mr. BRODERICK. There is no—for a company, for the people involved, there is no time limit specified. The Administrator may deny that reapplication, but there is no time limit specified that you must wait for a company.

Mr. BORSKI. All right. So your folks could have negotiated? Could your people negotiate a five-year agreement before Mr. Holtz could reapply, or that's something that he and his attorneys must agree to it?

Mr. BRODERICK. Right.

Mr. WALDEN. Yes.

Mr. BORSKI. But they could have negotiated?

Mr. BRODERICK. In theory, yes. If they would have agreed to it.

Mr. BORSKI. So then we come down to the FAA saying one year is fine and Holtz agreeing to it and that was pretty much where it came from.

Mr. BRODERICK. In sum, yes.

Mr. BORSKI. It wasn't that FAA said five and then got down to one; they just came back in——

Mr. BRODERICK. I would not put myself in the middle of those negotiations. I don't know what words were exchanged. All I know is the result. You'd have to ask Ms. Alkalay what the going imposition was.

Mr. WALDEN. I'm not aware of that, either. That's a question that Loretta Alkalay can answer.

Mr. BORSKI. I'd like to ask Mr. Walden one more question. Suppose Mr. Holtz didn't agree? What rights do you have? What can you do? Suppose the FAA thinks that Mr. Holtz should be kept out

five-years, Mr. Holtz doesn't agree. What happens next? Can you do it by authority?

Mr. WALDEN. If we weren't able to reach an agreement that was reached in this case, then we would be obliged to process an application by Mr. Holtz, but we would be, under the regulations, authorized to deny that application on the basis that Mr. Holtz had been previously revoked.

Where I see some vulnerability in the Agency's regulations is that, without a basis—a present basis—for determining that an applicant lacks the qualifications to hold an air carrier certificate, then denying it simply based on past conduct that does not relate to present ability and willingness to comply with the Federal Aviation regulations would be subject to judicial review and likely overturned by a court.

Mr. BORSKI. Do you need further Congressional law? You are telling me, in essence, you can't do this then.

Mr. BRODERICK. No. He is saying you can't do it arbitrarily.

Mr. BORSKI. Arbitrarily. Right.

Mr. BRODERICK. If you have a good reason for denying the certificate, there is no problem. We may get sued, but we have the authority to deny it for good reason. We just can't be arbitrary and capricious in what we do.

Mr. BORSKI. And you feel confident that you have enough of that authority?

Mr. BRODERICK. Yes, I do.

Mr. WALDEN. Yes.

Mr. BORSKI. And you don't need tightening up of those regulations to say "If this happens and this happens and this happens you can't reapply for five years."?

Mr. BRODERICK. In fact, I think it would tie people's hands. You wouldn't be able to tailor, if you will, the punishment to the crime if you had specific lists of "If you do this, then this is what happens."

Mr. BORSKI. Let me close by saying once again, Mr. Broderick, that I think we've got somewhat of a problem in your Agency from people who feel very uncomfortable with the outcome of this. Perhaps you don't. Perhaps Mr. Walden doesn't. I would suggest to you that the people who testified here yesterday were extremely uncomfortable. I feel bad about the morale that they may have if that's the case, and I would encourage you to look into that.

Thank you, sir.

Thank you, Mr. Chairman.

Mr. ANDERSON. Mr. Broderick, according to testimony given by former Administrator McArtor before this subcommittee two years ago, there were recurring concerns expressed by operators about the lack of consistency among regions concerning enforcement sanctions. To address this, the FAA established a process through which significant enforcement actions were coordinated with Washington Headquarters before they were authorized to be taken.

Mr. Broderick, was the Northeast Jet enforcement case not considered to be significant?

Mr. BRODERICK. No. It was considered to be significant, sir.

Mr. WALDEN. Under 2150.3(a), which is the FAA order that provides for coordination requirements, all certification actions and

revocation actions against air carriers—121 and 135 carriers—must be coordinated with Washington to ensure consistency and uniformity.

Mr. ANDERSON. You may have answered my next question, but I'll ask it anyway. What, under FAA's criteria, would constitute significant enforcement cases which would be referred to Washington?

Mr. WALDEN. Well, in addition to revocation or suspensions of air carriers holding part 121 and 135 certificates, a threshold of civil penalty actions that I believe is $100,000 also must be sent to Washington Headquarters for clearance.

That process is undergoing review right now as part of the action items implementing the General Aviation System Safety and Efficiency Review Process.

The Administrator announced in March of 1990 a number of changes to enhance and improve the Agency's compliance and enforcement system with regard to general aviation. In addition, later in March the Administrator announced a plan to improve the Agency's enforcement system with regard to air carriers. That has led the Agency to review FAA order 2150.3(a) and determine the appropriate coordination requirements, keeping in mind the need to apply the law consistently, but also reposing in field and regional elements the appropriate level of discretion.

Mr. ANDERSON. Mr. Broderick, kind of carrying out his answer a little bit, former Administrator McArtor acknowledged the need to improve the accuracy and the effectiveness of the FAA's enforcement information system several years ago, and the DOT Inspector General found that the FAA's enforcement information system had been under development since 1980 but wasn't being used because computer programs hadn't been developed to produce meaningful reports for management's tracking and analysis.

The IG reported that, as of March, 1989, the FAA still had not developed a central data system which would identify emerging problems by type of violation, type of aircraft, air carrier, and region, before those problems resulted in adverse occurrences.

My question, Mr. Broderick, is: What is the status of the FAA's enforcement information system?

Mr. BRODERICK. We are working with the IG and the software people to improve that system. We agree with all of the recommendations that have been made. Frankly, the only thing that prevents us from completing everything more quickly is the normal resource limitations and priorities.

We do have some difficulties in computer hardware, as well. We are just beginning to get the resources now to purchase the hardware that will be required to make this a truly efficient and workable system.

We don't have any disagreement with the criticism, and we are going to work as fast as resources will allow to make the system as useful as it possibly can be.

Mr. ANDERSON. Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman.

Mr. Broderick, I don't really have dog in this fight. I'm from Tennessee and I had never heard of Northeast Jet until yesterday. But,

the way I understand it, you are pretty much satisfied with the authority that you have to shut down an airline; is that correct?

Mr. BRODERICK. Yes, sir, we are.

Mr. DUNCAN. And I understand that Northeast Jet at one time had 12 jets, and then they had these violations, and the FAA came in and shut them down and they were closed down for a year and a half, and now they are back operating with one jet, substantially reduced from where they were. Is that correct?

Mr. BRODERICK. That's good, sir. Yes, sir.

Mr. DUNCAN. Just out of curiosity, how many airlines has the FAA closed down for any period of time in the last five years?

Mr. BRODERICK. I can give you a current statistic. As of mid-June we had issued 29 emergency revocations for air taxis. I would say roughly extrapolating we are talking about—I'm sorry—that's a year and a half's data. So if we are talking about five years, maybe it is 100 airlines, bearing in mind, of course, that there are over 3,000 of these at any one time. So it is a very small percentage but, nevertheless, it happens.

Mr. DUNCAN. What is the average length of time that an airline stays closed down under one of these orders?

Mr. BRODERICK. Permanent, sir. It is, as we discussed earlier, typically the equivalent of the death penalty for that company. Some companies do come back. Let me say it another way: some people who have been owners of companies may reapply and be permitted to start a new company. The company doesn't really come back. It is permanently revoked. That happens rarely, but it happens.

Mr. DUNCAN. So it is unusual to have a situation like this in which Northeast Jet would come back into business after a year and a half?

Mr. BRODERICK. Yes, sir.

Mr. DUNCAN. And, as I understand it, now the FAA is watching this company very, very closely, and you are satisfied that there are no violations going on at this time, is that correct?

Mr. BRODERICK. Yes, sir, although it must be admitted that they have only been in business a few weeks, so they have hardly had time to do anything wrong, so to speak. But we will be watching them very closely, and we insist with them, as with others, on strict compliance with regulations. But I think it is fair to say they will get a lot sharper look than most other companies because of this history.

Mr. DUNCAN. Just out of curiosity, how do you know when you are dealing with an actual valid complaint and not just some former disgruntled employees?

Mr. BRODERICK. You don't, sir, until you have——

Mr. DUNCAN. Just have to check it out.

Mr. BRODERICK [continuing]. Completed a reasonable investigation. You have to check out every one of them, and we do.

Mr. DUNCAN. Now, Mr. Beamer yesterday testified that he had started flying for Northeast Jet after just 30 minutes of training. I was a little shocked by that, but then a few minutes later he said he had been flying for ten years or several years for some other company. What requirements does the FAA have along that line as

far as—can a company come along and just hire some inexperienced pilot who is not qualified?

Mr. BRODERICK. No, sir. There are very strict regulations about the kind of qualifications you have. In a small company like this, it is conceivable that with a very minimal amount of training with someone with that kind of experience you can come in and quite quickly begin flying air taxis that you are fully qualified in and have a lot of experience in.

If you start talking about scheduled commuter transportation or scheduled airline transportation, of course, the requirements get more and more strict for not only training, but checking programs.

Mr. DUNCAN. So a company would be allowed to take into consideration all the years of prior experience a pilot had?

Mr. BRODERICK. Yes, sir. As a matter of fact, we require that because we want people to look back and see what kinds of equipment they have flown and what kind of experience they have had in order to give them the proper credit and the right additional training that they may need given the present situation, whatever that would be.

Mr. DUNCAN. Do you think that perhaps we are making a mountain out of a molehill on this situation here today?

Mr. BRODERICK. I wouldn't call it that, sir. It is a reasonable question to ask as to whether or not the kind of penalties that we have assessed or extracted are appropriate. As I indicated, I think that perhaps one of the things that people fail to realize is the very unusual nature of the situation with people coming back into the aviation business. It is not all that common.

If it was a major airline that we were talking about, as I mentioned earlier, like American or United, and we had only put them out of business for a year, I think people would view it differently. This is a very small, small business, and it is viewed somewhat differently.

The one constant among all of these airlines is the obligation for them to operate to the highest level of safety in the public interest and the responsibility we have to do everything we can to make sure that happens.

Mr. DUNCAN. How many safety inspectors does the FAA have assigned directly to flight safety work at this time?

Mr. BRODERICK. Over 2,300. By the end of the year it will be about 2,575.

Mr. DUNCAN. It will be 2,575 by the end of the year?

Mr. BRODERICK. That's right.

Mr. DUNCAN. How does that compare, for instance, to five years ago?

Mr. BRODERICK. Much greater. I can give you a number of September 30, 1983. I think we had 1,351. So its is——

Mr. DUNCAN. In September of 1983 it was 1,351?

Mr. BRODERICK. Right. That was our low point. We have been rebuilding ever since—a few hundred in the mid 1980s, and going up at——

Mr. DUNCAN. So is seven years' time we have almost doubled the number?

Mr. BRODERICK. That's correct, sir.

Mr. DUNCAN. Thank you very much.

Mr. BORSKI [assuming Chair]. I have one more question, gentlemen, if I may. I don't care who answers it. I had a question on this regulation again and just what authority you have. You may have answered this before, but it is not clear.

If the Administrator chooses to, can he keep someone out for more than a year without an agreement being reached?

Mr. BRODERICK. If the Administrator has good reason to do so that we believed collectively could be defended against charges of being arbitrary, I think we have that authority. But, as Mr. Walden has ponted out, at the time—let's say 18 months from the revocation—that we make that decision that you cannot come back in because of 135.13, the regulation we are talking about, we've got to have a reason then, not because of what you did a year and a half ago, but because today we do not believe that you will operate in compliance with the regulations, and here is why. There has to be a good reason. It can't be arbitrary.

Mr. BORSKI. I believe the regulations say that you can do that. "The Administrator may deny any applicant a certificate under this part if the Administrator finds that operating certificate previously issued to the applicant was revoked."

Mr. BRODERICK. Yes. You are right, sir. But all of our actions in enforcing those regulations are subject to judicial review. We can't take a regulation like that and interpret it the way we want to the exclusion of the judge, who would say, "Mr. FAA, you are being arbitrary in your exercise of power."

So we have to have a substantive, good reason for what we do. If we do have that good reason and we have confidence that we can defend it, I think we do have the authority. That's not a requirement. There isn't any of things that we must fulfill or a prescriptionof penalties; it is discretion.

Mr. BORSKI. Then what keeps coming to my mind is that no matter what someone has done in the past, as long as he comes up with a new agreement there is nothing we can do to keep him out. That is basically what you are saying?

Mr. BRODERICK. No. I think—maybe the difficulty we are having is that there is nothing we can do to keep him from reapplying, but that regulation, when they reapply, could be involed to keep them out if there is a good reason to do so.

Mr. BORSKI. And in this case our are just comfortable this is not or was not at the time a good reason. But if there were good reason, you could deny for——

Mr. BRODERICK. For good cause.

Mr. BORSKI. For good cause for how long? Or would that just be determined——

Mr. BRODERICK. On that day. It is a continuous process of reevaluation. You can't deny somebody—you can't have somebody come before you say, "You've done something today; therefore, for the next five years you can't come back to us. We don't have that authority, nor do we seek that authority. But if we revoke somebody's certificate today and they come back six months, two years, or five years later, and we say we can use that regulation as the hook and then say, "Here is the reason why today we don't think that you can meet our requirements," and if we could defend it in court, we'd have the authority to do so.

Mr. WALDEN. And as long as that reason is valid the Agency can continue to deny applications.

It might be instructive to cite the Canfield Aviation versus NTSB decision that was decided a couple of years ago. It is somewhat different than the Northeast Jet situation.

The principal employee of Cash Air was a man by the name of Reynold Crete, C-R-E-T-E. Cash Air had its certificate revoked. A different company, a 135 operator by the name of Canfield Aviation, sought to include Reynold Crete in its list of management officials. This came to the attention of the FAA inspector, who reached the appropriate level of the FAA, and the FAA revoked the air carrier operating certificate of Canfield Aviation because of Reynold Crete's participation in that company and his participation in the previously-revoked company. That was the invocation of the Administrator's authority under 135.13(b).

The Court of Appeals upheld the Agency's revocation of Canfield Aviation under that standard, but did so also noting that there was some potential Constitutional vulnerability to the Agency's regulations in that the Agency does not have a procedure for providing a formal notification to someone at the time the initial certificate is revoked that that person may also be turned down at a later time.

That is also someting that is undergong review at this time, so that we don't have a revocation action overturned on that basis.

Mr. BORSKI. What comes to mind to me is other professions. I was a stock broker in earlier life, and you could be banned for life for being a trader if you did something bad. Pete Rose in baseball is banned for life. He'll try to get back at some point in time, I'm sure, and he'll promise not to be bad again, but what he did before is so egregious that perhaps they'll never let him in.

I'm trying to get to—can that happen? Do you have the authority to do that it you find someone is that egregious?

Mr. BRODERICK. Sir, it virtually always does happen. The Pete Rose case is a good example. Pete Rose is banned for life, but today, tomorrow, or the next day he could reapply and be reinstated. So it is not really, in that sense, a ban for life. It is a ban for life unless we decide to let you back in.

As I indicated in earlier testimony, the fact of the matter is that revocation of an air taxi operating certificate that, for the people that are named in that 135.13 regulation, it is virtually always the death penalty. It is very rare that this kind of thing happens. So we are talking about the exception, not the rule.

Mr. BORSKI. That's why it is so interesting. It is the exception. If it is the death penalty, we have no argument. If the carrier comes back in business, then we've got a question that perhaps that year is not severe enough. And, again, what I am trying to get at is: do you have the authority to say—again, I'm assuming that your regional counsel says he wants to go for five years and there is no agreement that can be reached. Can the Administrator arbitraily say that you are out of business for five years?

Mr. BRODERICK. Not arbitrarily.

Mr. BORSKI. Can't do it?

Mr. BRODERICK. Not arbitrarily. What he said is, "Your certificate is permanently revoked. If at any time in the future you reapply I will conisder the facts as I know them at that time. You are

permanently revoked. Your airline is never going to come back. If you try to form a new airline, I will consider the facts and circumstances at that time. I have the authority to deny your application at the time for good cause." But not arbitrarily.

Mr. BORSKI. Is that based on previous record?

Mr. BRODERICK. Well, the previous record invokes 135.13. Now, we put that previous record aside and decide on the basis of the information we have at that time. Previous conduct, because we are human, has to be factored into it. And the propensity for somebody to continue that conduct is really the issue we are talking about.

We have made a determination that that is not likely to be the case in the case of Mr. Holtz.

Mr. BORSKI. Has that ever been done?

Mr. BRODERICK. I'm sorry? Has what ever been done.

Mr. BORSKI. Have you ever kept someone out of operations after he reapplied?

Mr. BRODERICK. The case that Mr. Walden cited is a good example, where not only do we use this regulation for new airlines, but you must continually comply with it. So if you bring somebody into your company in one of those positions, you run the risk of losing the certificate for that ongoing operation.

Mr. BORSKI. So that individual that you tested before is never allowed back?

Mr. BRODERICK. No. In the particular—it is not a—I guess maybe this is semantic. It is a permanent revocation in the sense that you must seek reapplication which is not automatically granted to you. If the facts at the time are such that the Administrator believes that you do not fulfill the criteria laid down for operating the highest degree of safety and all the other requirements that we have, he may deny the certificate at that time on the basis of past conduct.

Mr. BORSKI. Do this for me one more time. Perhaps you have done it before already and I just can't quite get it. If you are revoked permanently and then reapply under a new company can you be turned down based on that prior revocation based on your prior history. I think the answer is no.

Mr. BRODERICK. Yes. The answer would be—I would say no, not solely because you were involved in a prior revocation.

Mr. WALDEN. Unless we were to find that the conduct that gave rise to those violations is likely to recur. We need to be satisfied that the motive, the opportunity, the willingness to comply with the Federal Aviation reuglations has been met and has been satisfied. And if we come to the conclusion that someone has not been rehabilitated, someone has not been reformed, and we can articulate that basis, then we may—and probably ought to—deny that application for a certificate.

Mr. BORSKI. And then your fear would be you'd be challenged in court?

Mr. WALDEN. The expectation that it would be challenged in court. But if Mr. Brokerick's people can stand up and say that we are not convinced that that person has been rehabilitated, has been reformed, has the capability and willingness to comply with the Federal aviation regulations, I can defend that lawsuit.

Mr. BORSKI. So as long as you are rehabilitated you can come back into this business, no matter what you did in the past

Mr. BRODERICK. In theory, yes, because there is no list of crimes for which it ius forbidden to come back in. That's true. I should say "offenses" as opposed to "crimes."

Mr. BORSKI. Thank you, gentlemen.

[Mr. Broderick's prepared statement appears on page 237.]

Mr. BORSKI. The hearing is adjourned.

[Whereupon, at 11:54 a.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

PREPARED STATEMENT OF WITNESS

STATEMENT OF ANTHONY J. BRODERICK, ASSOCIATE ADMINISTRATOR FOR REGULATION AND CERTIFICATION, FEDERAL AVIATION ADMINISTRATION, BEFORE THE HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT, CONCERNING CERTIFICATION OF AIR CARRIERS. JUNE 20, 1990.

Mr. Chairman and Members of the Subcommittee:

I am Anthony J. Broderick, FAA's Associate Administrator for Regulation and Certification. With me is the FAA Chief Counsel, Gregory S. Walden. We appreciate having the opportunity to appear before the Subcommittee today. In your letter of invitation, you asked us to respond to three issues: FAA's safety enforcement philosophy; the process used to "recertify" carriers whose certificates have been revoked for safety reasons; and how we prevent inspectors from developing "overly cozy" relationships with carriers. I will respond briefly to each of these issues.

In brief, FAA's view of safety enforcement is that it is one of the tools available to us to achieve compliance with our safety requirements. There are clearly circumstances in which the FAA must be able to revoke a carrier's certificate immediately in order to protect the public interest or to take civil penalty action in order to penalize the violator and to deter others from similar safety violations. And we have not been reluctant to take tough enforcement action where warranted. We also have been

working on ways in which to improve voluntary compliance with our safety requirements. We have been encouraging carriers to ensure greater emphasis on safety at the highest levels within their organizations; we have provided incentives to carriers to put in their companies a system that will enable them to find discrepancies at the earliest time in order to take corrective action before the public safety is compromised. We need to assure that we are achieving the right balance of "cop and coach" in order to optimize industry acceptance of and compliance with our strict safety regulations.

With respect to the certification of a carrier whose certificate has been revoked for safety violations, there are several general principles that we apply. First, when such a carrier applies to us for a new certificate, no special preference is granted. That carrier must meet each and every safety requirement and demonstrate to our satisfaction that it does so in the same way that a brand new applicant would have to. Second, FAA surveillance activities take priority over certification functions. Therefore, a carrier seeking a new certificate will need to wait in line in the certificating region to await the availability of FAA inspectors to undertake the intensive activities associated with certification. Third, we often apply extra surveillance to carriers who have received a new certificate

after having had a certificate previously revoked. And, fourth, in some cases, as in Northeast Jet, by earlier agreement, we may set out additional requirements which the applicant must meet that go above and beyond what other applicants would have to meet. Our goal is to ensure that the carrier will operate safely and in full compliance with our regulations, and the certification process is intended to see that the applicant has the wherewithal and disposition to do so.

The Subcommittee has also asked us to describe what we do in the FAA to assure that inspectors do not develop an inappropriate relationship with those they regulate. Our basic approach is to ensure that multiple parties are involved in the inspection and surveillance process to minimize the possibility that oversight of a carrier will be unduly influenced by just one individual's actions. Let me elaborate.

All of our field organizations have supervisors who review both the quantity and quality of the work performed by our field inspectors. Additionally, the "straight-lining" of the reporting relationship of our regions to counterpart headquarters offices has given us a greater national perspective and evaluative capability than before. Each office now develops inspection programs that are based on a national work program designed to see

that each carrier is receiving appropriate FAA surveillance. We have been working to develop greater data bases to facilitate our ability to track what is going on throughout the system, both at the national and the regional level. We have also automated and standardized operations specifications for air carriers.

Our geographical concept calls for inspectors to undertake inspections of carriers operating within their regions, meaning that enforcement activities are not the sole domain of a carrier's principal operations or maintenance inspector. Our national aviation safety inspection program provides for special emphasis inspections using personnel outside the affected oversight organization, and we have been strengthening our evaluation functions both at the regional and national headquarters to provide an objective, outside perspective of inspection and surveillance activities.

In short, we are sensitive to the potential for situations in which our inspectors fail to objectively inspect air carrier activities. Over time, our track record has been, in my view, quite good, and we will continue to stress with our inspection personnel the need to do their jobs fairly and objectively.

That completes my prepared statement, Mr. Chairman. We would be pleased to respond to any questions you might have at this time.